

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

FILED

JAN 30 2001

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

COTT BEVERAGE USA, INC.,

Defendant.

DAVID W. DANIEL, CLERK
US DISTRICT COURT
E. DIST. N. CAROLINA

CIVIL ACTION NO.
5:00-CV-694-F(3)

CONSENT DECREE

FOX 03 #22, p. 91

The Equal Employment Opportunity Commission (the "Commission") instituted this action pursuant to Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217, to enforce the requirements of the Equal Pay Act of 1963 (the "Equal Pay Act"), codified as Section 6(d) of the FLSA, 29 U.S.C. § 206(d), and pursuant to 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 Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The Commission and the Defendant, Cott Beverages, USA, Inc., now known as BCB USA, Corp., (the "Defendant"), hereby stipulate to jurisdiction of the Court over the parties and agree that the subject matter of this action is properly before the Court.

The parties have advised this Court that they desire to resolve the allegations in the Complaint without the burden, expense, and delay of further litigation.

This Decree shall not constitute an adjudication on the merits of the Commission's case and shall not be construed as an admission by Defendant of any discriminatory practice.

The Court has been advised that the parties hereto have agreed as follows:

1. Notwithstanding the non-admission of liability above, Defendant shall not discriminate against any employees on the basis of sex or any other protected category. Specifically, Defendant shall not pay female employees lower wages than it pays to male employees in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility and which are performed under similar working conditions, except where such payment is made pursuant to (a) a seniority system; (b) a merit system; (c) a system which measures earnings by quantity or quality of production; or (d) a differential based on any other factor other than sex. Defendant further shall not, in order to comply with this paragraph, reduce the wage rate of any employee.

2. Notwithstanding the non-admission of liability above, Defendant shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964 or the Equal Pay Act of 1963, or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under any of the foregoing statutes.

3. Defendant shall pay Laurie Atkinson the sum of twelve thousand sixty nine dollars (\$12,069.00) as backpay and interest in settlement of the claims raised in this action.

4. Defendant shall pay Laurie Atkinson the sum of thirty five hundred dollars (\$3,500.00) as compensatory damages in settlement of the claims raised in this action.

5. Defendant shall make the payments described in paragraphs 3 and 4 above by issuing a check payable to Laurie Atkinson. Payment shall be made within fifteen (15) days after the Court approves this Consent Decree, and Defendant shall mail the check to Laurie Atkinson, 4018 Fairhaven Avenue, Baltimore, MD 21226. Within ten (10) days after the check

has been sent to Ms. Atkinson, Defendant shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202, a copy of the check and proof of its delivery to Ms. Atkinson.

6. Defendant agrees that it shall provide a training program to all of its management and supervisory employees who participate in hiring, salary, and personnel decision-making at its facility in Wilson, North Carolina. At least fifteen (15) days prior to the program Defendant shall provide the Commission with an agenda for the training program. The training program will include an explanation of the requirements of the federal equal employment opportunity laws, including the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964 and their prohibition against sex discrimination in the workplace, including discrimination in pay. The training will also cover Defendant's anti-discrimination policy, and an explanation of the rights and responsibilities of employees and managers under the policy. This training shall be completed within one-hundred twenty (120) days after entry of the decree by the Court. Within ten (10) days after completion of the training, Defendant shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all employees in attendance.

7. During the term of this Decree, Defendant shall conspicuously post the attached Employee Notice, marked Appendix A, hereby made a part of this Decree, in a place where it is visible to employees at its Wilson, North Carolina facility. If the Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice.

8. Defendant agrees to provide the Commission with semi-annual reports during the term of this Decree. The reports shall include the following information: the identities of all employees in the position of Production Supervisor at Defendant's Wilson, North Carolina,

facility including by way of identification each person's name, address, telephone number, social security number, sex and salary history. If Defendant believes it is appropriate to do so, Defendant shall include a brief explanation of any salary discrepancy that may appear to be based on sex. Defendant shall submit the first report to the Commission four months after the entry of this Decree. Subsequent reports shall be submitted to the Commission at six month intervals during the term of this Decree.

9. Defendant agrees that the Commission may review compliance with this Decree. If anytime during the term of this Decree, the Commission believes that Defendant is in violation of this Decree, the Commission shall give notice of the alleged violation to the Defendant. Defendant shall have thirty (30) days in which to investigate and respond to the allegations. Thereafter, the parties shall have a period of thirty (30) days, or such additional period as may be agreed upon by them, in which to engage in negotiation and conciliation regarding such allegations, before the Commission exercises any remedy provided by law. For the purpose of preparing for such negotiation and conciliation, the Commission may inspect Defendant's premises, interview employees, and examine and copy documents.

10. The term of this Decree shall be for three (3) years from its entry by the Court. This Court retains jurisdiction of this case during that three-year period for entry of such further orders as may become necessary or appropriate upon proper motion of a party.

11. By entering into this agreement, Defendant does not admit that it has engaged in any unlawful conduct. All parties agree that entry of this Consent Decree does not constitute any

finding as to or admission of liability for any unlawful conduct.

So Ordered:

Date Jan. 30

James C. Ly
Judge, U.S. District Court
Eastern District of North Carolina

The parties jointly request that the Court approve and enter the Consent Decree:

COTT BEVERAGE, USA, INC.

by: Burton J. Fishman
Burton J. Fishman, Esquire
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
2400 N Street, N.W., Suite 500
Washington, DC 20037

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

GWENDOLYN YOUNG REAMS
Associate General Counsel

By: Mindy E. Weinstein
Mindy E. Weinstein
Regional Attorney
129 West Trade Street, Suite 400
Charlotte, NC 28202

By: Kerith Cohen
Kerith Cohen
Trial Attorney
1309 Annapolis Drive
Raleigh, NC 27608

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COTT BEVERAGE USA, INC.,)	
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Defendant.)	

NOTICE TO EMPLOYEES

1. This Notice is posted pursuant to a settlement between Cott Beverage USA, Inc. and the U.S. Equal Employment Opportunity Commission in a case alleging wage discrimination based on sex.
2. Federal law requires that employers may not discriminate against any employee because of the employee's race, color, religion, sex, national origin, age (40 or older) or disability. Cott Beverage USA supports and will comply with such federal law in all respects. Specifically, Cott Beverage USA agrees that it shall not pay female employees lower wages than it pays to male employees in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility and which are performed under similar working conditions.
3. Cott Beverage USA will not take any actions against employees because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact the U. S. Equal Employment Opportunity Commission at the following address and telephone number for the purpose of filing a charge of employment discrimination.

Equal Employment Opportunity Commission
Raleigh Area Office
1309 Annapolis Drive
Raleigh, North Carolina 27608
Tel: (919) 856-4064

APPENDIX A