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CHARLOTTE, N.C.

~~JUL 15 2004~~

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

Clerk, U. S. Dist. Court  
W. Dist of N. C.

FILED  
CHARLOTTE, N.C.  
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U.S. DISTRICT COURT  
W. DIST. OF N.C.

EQUAL EMPLOYMENT )  
OPPORTUNITY COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
THE GEHL CORPORATION d/b/a )  
THE GEHL GROUP )  
 )  
Defendant. )  
\_\_\_\_\_ )

CIVIL ACTION NO. 3:99CV274-MU

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission ("Plaintiff" or "the Commission") against The Gehl Corporation d/b/a The Gehl Group ("Defendant" or "The Gehl Group") pursuant to Sections 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq., ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. Plaintiff alleged that The Gehl Group engaged in unlawful employment practices at its facilities nationwide when it failed to hire Harriet Owens and a class of similarly situated females because of their sex.

Plaintiff and Defendant hereby stipulate to jurisdiction of the Court over the parties and the subject matter of this action.

Plaintiff and Defendant desire to resolve the allegations in the Complaint without the burden, expense, and delay of contested litigation. Therefore, both have agreed to the entry of this Consent Decree. This Decree, being entered with the consent of the parties, shall not constitute an adjudication or finding on the merits of the present action and shall not be used or

introduced for any purpose whatsoever in any legal proceeding, except in an action to enforce this Decree. The parties have agreed to this Decree, and neither this Decree nor the provisions contained herein shall be interpreted or construed as an admission by Defendant of a violation of Title VII or any other law prohibiting discrimination.

Upon the date of entry by the Court, this Decree shall be final and binding upon Plaintiff and Defendant, as well as upon their respective successors and assigns.

The Court has jurisdiction over the parties and the subject matter of this action. The Court has reviewed the terms of the proposed Consent Decree and in light of the pleadings and applicable laws and regulations, it has approved this Consent Decree as one which will promote and effectuate the purposes of Title VII.

It is therefore ORDERED, ADJUDGED AND DECREED that:

1. Defendant shall not discriminate against applicants for employment or employees on the basis of sex (gender) by denying equal employment opportunities to female applicants or employees.
2. Defendant shall not discriminate or retaliate 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, or assistance or participation in any investigation, proceeding or hearing under Title VII.
3. **Damages.** Defendant agrees to pay the gross sum of seventy thousand dollars (\$ 70,000) to resolve the Commission's claim for damages under Title VII. The full amount of the settlement (\$ 70,000) shall be payable as follows: (a) six thousand dollars (\$ 6,000) within twenty (20) days of the date the court enters this Consent Decree; (b) six thousand dollars

(\$ 6,000) by no later than the ninetieth (90) day after the court enters this Consent Decree; (c) the remaining fifty-eight thousand dollars (\$ 58,000) will become due and payable after the \$ 6,000 payment referenced in subsection (b) of this paragraph, and shall be paid in full within one (1) calendar year following the date the Court enters this Consent Decree. Said fifty-eight thousand dollars (\$ 58,000) shall be paid by Defendant in monthly installments of no less than two thousand (\$ 2,000) per month, payable on or before the fifteenth day (15<sup>th</sup>) of each month. It is expressly understood and agreed that the entire settlement fund, in the amount of seventy thousand dollars (\$ 70,000), shall be paid by no later than one (1) calendar year following the date the Court enters this Consent Decree. The settlement fund shall be distributed to Charging Party Harriet Owens and identified class members as described in paragraphs 4 through 9 below. Any undistributed settlement proceeds shall be distributed as described in paragraphs 10-11 below.

4. Harriet Owens. The first twenty thousand dollars (\$ 20,000) paid by Defendant under this Decree shall be paid to Charging Party Harriet Owens. The parties agree that said amount shall represent five hundred dollars (\$ 500) in back pay or "wages" as defined in the federal income tax code (26 U.S.C. §§ 3121(a) and 3401(a)). The remaining amounts (\$ 19,500) to be distributed to Ms. Owens shall be deemed damages not resulting from physical injuries or physical sickness. Defendant will issue Ms. Owens an IRS 1099 form as required by law, reflecting payment of said amounts. The payments referenced in this paragraph shall not be made to Harriet Owens until Defendant receives the signed release from Ms. Owens referenced in paragraph 9 below.

5. Class members. Following the payment of the amount to Harriet Owens as set out in paragraph 4 above, Defendant shall pay the remaining fifty thousand dollars (\$ 50,000) to identified class members in pro rata amounts. The class shall consist of females identified by the Commission who applied for telemarketer positions with Defendant, and were not hired.

6. The Commission shall provide Defendant a list of the names, addresses, and social security numbers of all identified class members (hereafter "class list") within one hundred twenty (120) days after the Court enters this Consent Decree. The class list shall also include the pro rata amount due to each class member. The class members shall be ranked on the class list by their date of application with Defendant, from earliest to latest. If two or more class members applied for employment on the same date, those applicants shall be ranked on the class list by their date of application, then in alphabetical order. If the date one or more class members applied with Defendant cannot be determined, those persons will be placed at the end of the class list, in alphabetical order.

7. Upon receipt of signed releases from the class members as referenced in paragraph 9 below, Defendant shall begin making payments to the class members immediately upon completion of payments to Harriet Owens. Defendant shall make payments to class members in the pro rata amount set forth on the class list, beginning with the first person identified on the class list, and continuing through the end of the list. The parties agree that all monies distributed to the class members will constitute back pay or "wages" as defined in the federal income tax code (26 U.S.C. §§ 3121(a) and 3401(a)). Defendant will issue each class member who is the recipient of a payment under this Decree, an IRS 1099 form as required by

law, reflecting payment in the appropriate amount .

8. All checks shall be mailed by certified mail, return receipt requested to Harriet Owens and each of the class members at the addresses to be provided by the Commission. Within ten (10) days of the date that Defendant mails the checks, it shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, N.C. 28202, a copy of each check and proof of its delivery.

9. Within ten (10) days of the date the court enters this Consent Decree, EEOC shall provide Defendant with the address for payment to Harriet Owens, along with an executed release from Ms. Owens. At the time of service of the class list referenced in paragraph 6 upon Defendant, EEOC shall serve Defendant with the releases executed by the class members. All releases shall be in the form attached hereto as *Exhibit A*.

10. **Undistributed settlement proceeds.** As used below, the term "undistributed settlement proceeds" shall mean and refer to the following:

- a. If any or all of the required releases are not signed and provided to Defendant, and as a result Defendant is not required to make some or all of the payments set out in paragraphs 3 through 5, the monies that are not paid by Defendant shall be deemed "undistributed settlement proceeds"; and
- b. If any payment mailed to a class member is returned undeliverable by the United States Postal Service, Defendant shall notify the EEOC of the returned payment within ten (10) days of the receipt of the returned payment by Defendant. Said notification shall be sent to Mindy E. Weinstein, Regional Attorney, EEOC, at the address in paragraph 8 above. EEOC shall have ninety (90) days thereafter to provide Defendant with a correct address for the class member. If EEOC is unable to provide a correct address for the class member, the payment shall be distributed to the next person on the class list (who has not received a payment) within five (5) days of notification from EEOC that EEOC is unable to provide a correct address. If the class list is exhausted, and Defendant has not paid the total sum of seventy thousand dollars (\$ 70,000), any monies that were not been paid by Defendant shall be deemed "undistributed settlement proceeds."

11. In the event that undistributed settlements proceeds remain one (1) calendar year following the date the Court enters this Consent Decree, the parties agree that EEOC shall designate a job training program for women to which the undistributed settlement proceeds shall be donated. Defendant shall notify EEOC within thirty (30) days following the date that it makes the final payment to class members of the existence and amount of any undistributed settlement proceeds. Within twenty (20) days of receipt of the notification from Defendant, EEOC shall provide the identity of the job training program, and instructions for making the donation, to Defendant.

12. **Affirmative relief.** Defendant does not currently conduct business within the United States or within any foreign jurisdiction. If Defendant resumes business within the United States or within any foreign jurisdiction during the term of this Decree, Defendant agrees to provide the affirmative relief described in paragraphs 13 through 20 below.

13. **Notice posting.** Within ten (10) days after resuming business operations in any state within the United States or within any foreign jurisdiction, and continuing throughout the term of this Decree, Defendant shall conspicuously post the attached Employee Notice, marked *Exhibit B*, in places where it is visible to employees at all of its facilities nationwide. Said Notice shall remain posted throughout the term of this Decree.

14. **Policy.** Within thirty (30) days after resuming business operations in any state within the United States or within any foreign jurisdiction, Defendant shall adopt a written employment policy prohibiting sex discrimination. Within sixty (60) days after resuming business operations in any state within the United States or within any foreign jurisdiction, a copy of said policy shall be distributed to each manager, supervisor and employee at each of Defendant's facilities nationwide. During the term of this Decree, the policy shall be distributed

to each new hire upon hire.

15. **Training.** During the term of this Decree, Defendant shall provide training to all managers and supervisors on its payroll at each of its facilities nationwide, concerning its policy against sex discrimination and Title VII's prohibitions against discrimination based on sex. This training shall be completed within ninety (90) days after resuming business operations in any state within the United States or within any foreign jurisdiction. Within one hundred twenty (120) days after resuming business operations, Defendant shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all persons in attendance. Said certification and roster shall be forwarded to Mindy E. Weinstein, Regional Attorney, EEOC, at the address in paragraph 8 above.

16. **Reporting.** From the date of resuming business operations, throughout the term of this Decree, Defendant shall submit quarterly reports to the Commission showing its employee profile, by gender, at all of its facilities nationwide. The reports shall contain, or be accompanied by, the most recent payroll records for each facility. The payroll records shall include at least the following for each employee: (a) name; (b) gender; (c) employee number; (d) facility at which the employee is employed; (e) the number of hours worked during the subject payroll period; (f) total earnings for the period; and (g) the check number for the payroll check provided to the employee.

17. The first report shall be submitted two (2) months after resuming business operations in any state within the United States or within any foreign jurisdiction. The second report shall be submitted three (3) months after the first report. Reports shall be submitted every three (3) months thereafter throughout the term of this Decree. The reports shall be mailed to Mindy E. Weinstein, Regional Attorney, EEOC, at the address in paragraph 8 above.

18. **Record keeping.** From the date of resuming business operations, throughout the term of this Decree, Defendant shall preserve all application forms submitted by candidates for employment for at least one (1) year from the date of receipt of the application form.

19. **Compliance review.** Defendant agrees that the Commission may review compliance with this Decree. As part of such review, the Commission may inspect Defendant's job sites, interview employees and examine and copy documents, including but not limited to payroll records and employment applications.


20. If at any time during the term of this Decree, the Commission believes that Defendant is in violation of this Decree, the Commission shall give notice to Defendant. After notified of the suspected violation(s), 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 periods 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.

21. **General Release.** In consideration of the payments described in paragraphs 3 through 11, the EEOC, on behalf of itself and its agents, representatives, attorneys, assigns and employees, fully and finally releases Defendant and any of its past or present employees, administrators, agents, officials, officers, directors, shareholders, divisions, parents, subsidiaries, predecessors, successors, affiliates, general partners, limited partners, employee benefit plans (and their sponsors, fiduciaries, or administrators), insurers, or attorneys, from any and all liability, claims, demands, actions, causes of action, suits, grievances, debts, sums of money, agreements, promises, damages, back and front pay, costs, expenses, attorneys' fees, and remedies of any type relating to any claims that arose or may have arisen out of the this



litigation, including: (a) all claims that were raised or could have been raised by EEOC in the captioned action; and (b) all claims, actions or liability that arose, or could have arisen under Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991 in the captioned action.

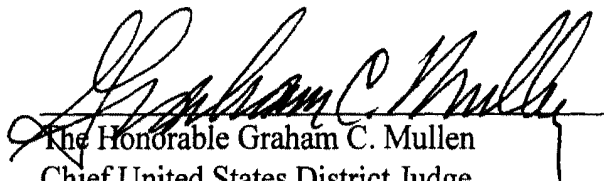
22. **Dismissal of Litigation.** The parties agree to seek entry of this Consent Decree and dismissal of this litigation with prejudice as to all claims, in the form attached hereto as *Exhibit C*. The parties agree that this Court shall retain jurisdiction of this cause for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate, *during the term of the Decree*

23. The term of this Decree shall be for three (3) years from its entry by the Court. 

24. Each party shall bear its own costs and attorney fees.

Date

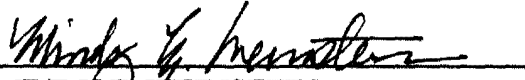
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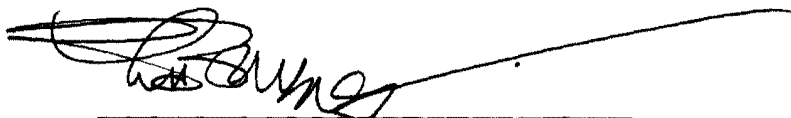
  
The Honorable Graham C. Mullen  
Chief United States District Judge  
Western District of North Carolina

CONSENTED TO:

**For Plaintiff,  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION**


GWENDOLYN YOUNG REAMS  
Acting Deputy General Counsel


  
MINDY B. WEINSTEIN  
Regional Attorney



LYNETTE A. BARNES  
Supervisory Trial Attorney  
EEOC  
129 W. Trade Street, Suite 400  
Charlotte, N.C. 28202

**For Defendant,  
THE GEHL CORPORATION d/b/a THE GEHL GROUP**

  
DAVID RITTER  
CHAD MOELLER  
Alzheimer & Gray  
10 S. Wacker  
Suite 3600  
Chicago, Illinois 60606

  
LEIGH LEVINE  
Alston & Bird  
1211 East Morehead Street  
P.O. Drawer 34009  
Charlotte, N.C. 28234-4009

**RELEASE**

In consideration of the payment to me by The Gehl Corporation d/b/a The Gehl Group, of a total amount of \_\_\_\_\_ (\$ \_\_\_\_\_), and in consideration of the Consent Decree agreed to by the Equal Employment Opportunity Commission and The Gehl Corporation d/b/a The Gehl Group, in Civil Action No. 3:99CV274-MU, of which this release is a part, I, \_\_\_\_\_ (name), hereby fully and forever release and discharge The Gehl Corporation d/b/a The Gehl Group, its successors and assigns, including its present and former directors, officers, employees and agents, from any claims or obligations under Title VII of the Civil Rights Act of 1964, which Plaintiff raised or could have raised in Civil Action No. 3:99CV274-MU.

I have read this release and I execute it voluntarily, without coercion or threat of reprisal.

Signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Dated: \_\_\_\_\_

**State of North Carolina**

**County of** \_\_\_\_\_

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

---

**PRINT your address (settlement check will be sent to this address):**

\_\_\_\_\_

\_\_\_\_\_

**Social security number :** \_\_\_\_\_

**(You must provide your social security number or no money can be distributed to you)**

**Telephone number:** \_\_\_\_\_

**EXHIBIT A**

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

<b>EQUAL EMPLOYMENT</b>	)	
<b>OPPORTUNITY COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO.</b>
	)	<b>3:99CV274-MU</b>
<b>THE GEHL CORPORATION d/b/a</b>	)	
<b>THE GEHL GROUP</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**NOTICE TO EMPLOYEES**

This Notice is being posted pursuant to a Consent Decree entered in the above-styled case. Federal law prohibits discrimination against any employee or applicant for employment because of the individual's sex, race, color, religion, national origin, disability or age (40 and over) with respect to hiring, promotion, discipline, firing, compensation, or other terms, conditions or privileges of employment. Federal law also prohibits retaliation against any employee or applicant for employment because the individual has opposed discriminatory employment practices.

The Gehl Corporation d/b/a The Gehl Group ("The Gehl Group") supports and will comply with such federal law in all respects and will not discriminate against any applicant in hiring because of their sex (gender). Additionally, The Gehl Group will not take any action against employees because of their race, color, religion, sex, national origin, disability or age, or because they have exercised their rights under the law.

The Gehl Group has adopted an equal employment opportunity policy and will ensure that all management, supervisors, and other employees abide by the requirements of that policy, and that employees will not be discriminated against on the basis of sex (gender). The Gehl Group has taken, and will continue to take all actions required by the United States District Court, including the grant of monetary relief to aggrieved individuals, and the posting of this notice.

If you believe that you have been discriminated against based on your sex (gender), you should report the discriminatory conduct promptly to The Gehl Group, or to the U.S. Equal Employment Opportunity Commission.

This Notice will remain posted for at least three (3) years by agreement with the U.S. Equal Employment Opportunity Commission.

**DO NOT REMOVE THIS NOTICE UNTIL:** \_\_\_\_\_, 2004.

\_\_\_\_\_  
Date

\_\_\_\_\_  
for The Gehl Corporation d/b/a The Gehl Group

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

<b>EQUAL EMPLOYMENT</b>	)	
<b>OPPORTUNITY COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO.</b>
	)	<b>3:99CV274-MU</b>
<b>THE GEHL CORPORATION d/b/a</b>	)	
<b>THE GEHL GROUP</b>	)	
	)	
<b>Defendant.</b>	)	
<hr/>		

**JOINT MOTION FOR ENTRY OF A CONSENT DECREE  
AND ORDER OF DISMISSAL WITH PREJUDICE**

Plaintiff, the Equal Employment Opportunity Commission ("Plaintiff") and Defendant, The Gehl Corporation d/b/a The Gehl Group ("Defendant"), the parties to this action, jointly move this Court to approve and enter the Consent Decree and Order of Dismissal with Prejudice filed herewith. In support of this motion, the parties jointly represent to the Court as follows:

1. The parties are desirous of resolving this matter without the burden and expense of further litigation.
2. The parties waive trial, briefs, arguments, findings of fact and conclusions of law.
3. The intent of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq., ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, will be effectuated by entry of the Consent Decree.
4. The Consent Decree is intended to, and does, resolve all issues in dispute between Plaintiff and Defendant.
5. The parties further request that the Order of Dismissal with Prejudice filed herewith be

entered concurrent with the signing of the Consent Decree. It is the intent of the parties to dismiss this case with prejudice; however, the parties specifically agree that for a period of three (3) year from the date of entry of the Consent Decree by the court, Plaintiff can initiate proceedings seeking judicial enforcement of the Consent Decree.

WHEREFORE, Plaintiff and Defendant jointly request that the Court approve and enter the Consent Decree filed herewith and enter the Order of Dismissal with Prejudice.

SUBMITTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**For Plaintiff,  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION**

---

LYNETTE A. BARNES  
Supervisory Trial Attorney  
EEOC  
129 W. Trade Street, Suite 400  
Charlotte, N.C. 28202

**For Defendant,  
THE GEHL CORPORATION d/b/a THE GEHL GROUP**

---

DAVID RITTER  
CHAD MOELLER  
Altheimer & Gray  
10 S. Wacker  
Suite 3600  
Chicago, Illinois 60606

---

LEIGH LEVINE (Local counsel)  
Alston & Bird  
1211 East Morehead Street  
P.O. Drawer 34009  
Charlotte, N.C. 28234-4009

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

<b>EQUAL EMPLOYMENT</b>	)	
<b>OPPORTUNITY COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO.</b>
	)	<b>3:99CV274-MU</b>
<b>THE GEHL CORPORATION d/b/a</b>	)	
<b>THE GEHL GROUP</b>	)	
	)	
<b>Defendant.</b>	)	
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**ORDER OF DISMISSAL WITH PREJUDICE**

This matter is before the Court on the joint motion of Plaintiff and Defendant for entry of a Consent Decree and Order of Dismissal with Prejudice.

The Court has jurisdiction over the parties and the subject matter of the action. The Court has reviewed the terms of the proposed Consent Decree, and in light of the pleadings and applicable laws and regulations, it has approved the Consent Decree as one which will promote and effectuate the purposes of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, *et seq.*, and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

WHEREFORE, IT IS ORDERED that the Consent Decree is approved and shall be entered. It is further ordered that this action is hereby dismissed with prejudice, reserving the right of the Plaintiff, Equal Employment Opportunity Commission, to initiate proceedings seeking judicial enforcement of the Consent Decree for a period of three (3) years from the date of entry of the Consent Decree by the Court.

THIS \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
The Honorable Graham C. Mullen  
Chief United States District Judge  
Western District of North Carolina

United States District Court  
for the  
Western District of North Carolina  
July 13, 2001

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 3:99-cv-00274

True and correct copies of the attached were mailed by the clerk to the following:

C. Gregory Stewart, Esq.  
Equal Employment Opportunity Commission  
1801 "L" Street, N.W.  
Washington, DC 20507

Gwendolyn Young Reams, Esq.  
Equal Employment Opportunity Commission  
1801 L Street, N.W.  
7th Floor  
Washington, DC 20507

Mindy E. Weinstein, Esq.  
Equal Employment Opportunity Commission  
129 W. Trade St.  
Suite 400  
Charlotte, NC 28202-2799

Rosemary J. Fox, Esq.  
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Charlotte, NC 28202-2799

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Chicago, IL 60606



Angela Ortiz, Esq.  
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Robert P. Riordan, Esq.  
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One Atlantic Center  
Atlanta, GA 30309-3424

Daniel W. Small, Esq.  
P. O. Box 190608  
323 Union St., Suite 300  
Nashville, TN 37219-0608

cc:  
Judge ( )  
Magistrate Judge ( )  
U.S. Marshal ( )  
Probation ( )  
U.S. Attorney ( )  
Atty. for Deft. ( )  
Defendant ( )  
Warden ( )  
Bureau of Prisons ( )  
Court Reporter ( )  
Courtroom Deputy ( )  
Orig-Security ( )  
Bankruptcy Clerk's Ofc. ( )  
Other \_\_\_\_\_ ( )

Date: 7/3/06

Frank G. Johns, Clerk

By: 

Deputy Clerk