

d/b/a Kerr Lake Nursing and Rehabilitation Center (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.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the parties and the subject matter of this action; (2) the purpose and provisions of the ADA will be promoted and effectuated by the entry of the Consent Decree; and (3) this Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 16 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against any person on the basis of disability within the meaning of the ADA, including failing to provide a reasonable accommodation.

2. Defendant shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under the ADA or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under that statute.

3. Defendant shall pay Nicky Thomas as the sum of Fifty-Thousand Dollars (\$50,000.00) in settlement of the claims raised in this action. Defendant shall make payment by issuing a check payable to Nicky Thomas. Payment shall be made within fifteen (15) days after the Court approves this Consent Decree, and Defendant shall mail the check to Nicky Thomas at an address provided by the Commission. Within ten (10) days after the check has been sent, Defendant shall send to the Commission, a copy of the check and proof of its delivery to Nicky

Thomas.

4. Within ten (10) days of the entry of this decree by the Court, Defendant shall eliminate from the employment records of Nicky Thomas any and all documents, entries, or references of any kind relating to the facts and circumstances which led to the filing of EEO Charge Number 433-2011-00590 and the related events that occurred thereafter, including this litigation. In addition, within ten (10) days of the entry of this decree by the Court, Defendant shall eliminate all reference to Thomas' termination from its personnel records. Within fifteen (15) days of the entry of this decree by the Court, Defendant shall report compliance with this provision to the Commission.

5. Defendant shall provide Nicky Thomas with a positive letter of reference using the form attached hereto as Exhibit A. Within ten (10) days of the entry of this Consent Decree by the Court, the original, signed letter of reference shall be provided to Nicky Thomas at an address provided by the Commission. Nicky Thomas is free to disseminate the letter to potential employers. Defendant agrees that if it receives any inquiry about Nicky Thomas from a potential employer, it will provide only the information set forth in the letter of reference in response.

6. Within ninety (90) days of the entry of this decree by the Court, Defendant shall revise its written anti-discrimination policy to include the following: (a) an explanation of the requirements of the federal equal employment opportunity laws, including the ADA and the requirement that employers provide employees or applicants with a reasonable accommodation unless such accommodation would constitute an undue hardship; (b) a procedure for requesting a reasonable accommodation, including the identification of a person or persons to whom a request for reasonable accommodation should be made, under the ADA; and (c) an explanation of the employer's obligation to engage in the interactive process when an employee requests a

reasonable accommodation under the ADA. Defendant will distribute a copy of the revised policy to all of its facilities as an update to its Policy Manual. Defendant shall distribute directly to each current employee at its Kerr Lake facility a copy of the policy within the aforementioned ninety (90) day time period. Within one hundred (100) days of the entry of this decree, Defendant shall report compliance to the Commission. During the term of this Decree, Defendant shall distribute the policy to all new employees at its Kerr Lake facility and review it with them at the time of hire.

7. During the term of this decree, Defendant shall post a copy of the policy described in paragraph 6, *supra*, in its Kerr Lake facility in a place where it is visible to employees. If the policy becomes defaced or unreadable, Defendant shall replace it by posting another copy of the policy. Within one hundred (100) days after the Consent Decree is entered, Defendant will post the policy and notify the Commission that it has been posted.

8. During the term of this Decree, Defendant shall provide an annual training program to all of its managers, supervisors, employees and anyone involved in the reasonable accommodation process at its Kerr Lake facility. Each training program shall include an explanation of the requirements of the ADA and its prohibition against discrimination based on disability and reasonable accommodation requirement absent undue hardship. Each training program shall also include an explanation of Defendant's policy referenced in paragraph 6 above, and an explanation of the rights and responsibilities of employees and managers under the policy.

The first training program shall be completed within six (6) months after entry of the decree by the Court. Each subsequent training program shall be conducted at approximately one-year intervals. At least fifteen (15) days prior to each program, Defendant shall provide the

Commission with an agenda for the training program . Within ten (10) days after completion of each training program, 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.

9. Beginning within thirty (30) days after the entry of this Decree by the Court, and continuing throughout the term of this Decree, Defendant shall conspicuously post the attached Employee Notice, marked Exhibit B, hereby made a part of this Decree, in a place where it is visible to employees at its Kerr Lake facility. If the Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice. Within forty-five (45) days after entry of this Decree, Defendant shall notify the Commission that the Notice has been posted pursuant to this provision.

10. During the term of this Consent Decree, Defendant shall provide the Commission with reports at six (6) month intervals, with the first being due four (4) months after approval by the Court of this Decree. The reports will include the following information:

- A. the identities of all applicants or employees at Defendant's Kerr Lake Facility who at any time during the reporting period requested an accommodation for a physical or mental impairment, including by way of identification each person's assigned employee number, date of accommodation request, accommodation requested, whether the request was granted, and what, if any, accommodation was provided to the individual;
- B. for each individual identified in 10.A. above, who was not provided with an accommodation, provide a detailed explanation as to why the request was not granted and identify the individual(s) involved in the decision regarding the accommodation request;
- C. for each individual identified in 10.B. above, explain whether the individual's employment status has changed in any respect (for example, including but not limited to, termination, firing, demotion, promotion, or to part-time from full-time) at any time since the individual's request for an accommodation; and

- D. for each individual whose employment status has changed as identified in 10.C. above, a detailed statement explaining why the individual's employment status has changed and the identity of all persons involved in the decision to change said employment status.

In the event there is no activity to report pursuant to this paragraph, Defendant shall send the Commission a "negative" report indicating no activity.

11. The Commission may review compliance with this Decree. As part of such review, the Commission may inspect Defendant's facilities, interview employees and examine and copy documents.

12. If anytime during the term of this Decree, the Commission believes that Defendant is in violation of the Decree, the Commission shall give notice of the alleged violation to Defendant. Defendant shall have ten (10) days in which to investigate and respond to the allegations. Thereafter, the parties shall then have a period of ten (10) days or such additional period as may be agreed upon by them, in which to engage in negotiation regarding such allegations before the Commission exercises any remedy provided by law.

13. The term of this Decree shall be for two (2) years from its entry by the Court.

14. All reports or other documents sent to the Commission by Defendant pursuant to this Consent Decree shall be sent by electronic mail to: (1) EEOC-CTDO-decree-monitoring@eoc.gov; or (2) if by regular mail to - Lynette A. Barnes, Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202.

15. Each party shall bear its own costs and attorney's fees.

16. 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.

IT IS SO ORDERED.



1/9/2014

Date Judge,

Senior

U.S. District Court

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

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Plaintiff

P. DAVID LOPEZ
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

/s/ Lynette A. Barnes
LYNETTE A. BARNES
Regional Attorney
129 West Trade Street, Suite 400
Charlotte, N.C. 28202

/s/ Zoë G. Mahood
ZOË G. MAHOOD
N.C. Bar No.21722
Senior Trial Attorney
Raleigh Area Office
1309 Annapolis Drive
Raleigh, NC 27608
Phone: (919) 856.4080
Fax: (919) 856.4156
Zoe.Mahood@eeoc.gov

Attorneys for Plaintiff

BRITTHAVEN, INC. d/b/a BRITTHAVEN OF
HENDERSON and PRINCIPLE LONG TERM
CARE, INC. d/b/a KERR LAKE NURSING &
REHABILITATION CENTER, Defendants

/s/ Gregory P. McGuire
Gregory P. McGuire
N.C. Bar No. 14237
Margaret S. Scholz
N.C. Bar No. 44777
Ogletree, Deakins, Nash, Smoak
& Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, N.C. 27609
Phone: (919) 787-9700
Fax: (919) 783.9412
Greg.McGuire@ogletreedeakins.com

Attorneys for Defendant

EXHIBIT A

[Defendant's letterhead]

[Date]

TO WHOM IT MAY CONCERN:

We are pleased to provide the following reference on behalf of our former employee, Nicky Thomas.

Ms. Thomas was employed by Britthaven, Inc. d/b/a Britthaven of Henderson from September 25, 2009 through December 1, 2010. During her tenure with us, Ms. Thomas held the position of cook and dietary aide. Her ending salary was \$8.00 per hour.

Ms. Thomas was an honest and reliable employee who possesses excellent skills. Indeed, we valued Ms. Thomas' services to our company.

We hope that this information about Ms. Thomas is helpful to you in considering her for employment.

Sincerely,

[Typed name of company president]
Vice President, Britthaven, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO: 5:12-CV-818

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
v.
BRITTHAVEN, INC. d/b/a BRITTHAVEN OF HENDERSON and PRINCIPLE LONG TERM CARE, INC. d/b/a KERR LAKE NURSING & REHABILITATION CENTER,
Defendant.

NOTICE

- 1. This Notice is posted pursuant to a settlement between the U.S. Equal Employment Opportunity Commission and Britthaven, Inc. d/b/a Britthaven of Henderson and Principle Long Term Care, Inc. d/b/a Kerr Lake Nursing and Rehabilitation Center ("Defendants") in a case of discrimination based on disability. Specifically, the EEOC alleged that Defendants discriminated against a former employee in refusing to accommodate her physical impairment and discharging her because of her disability in violation of the Americans with Disabilities Act ("ADA"). As part of the settlement, Defendants agreed to pay monetary damages to the former employee and to take other action set out in the Consent Decree resolving this matter.
2. Federal law requires that employers not discriminate against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin, age (40 or older) or disability. The Americans with Disabilities Act specifically prohibits religious discrimination.
3. Defendants will comply with such federal law in all respects. Furthermore, Defendants will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or given testimony, assistance or 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 their local U. S. Equal Employment Opportunity Commission field office for the purpose of filing a charge of employment discrimination. To locate the nearest field office, contact:

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, DC 20507
TEL: 1-800-669-4000
TTY: 1-800-669-6820

This Notice will remain posted for at least five (5) years by agreement with the U.S. Equal Employment Opportunity Commission.

DO NOT REMOVE THIS NOTICE UNTIL: _____, 2015.