

**U.S. Equal Employment  
Opportunity Commission  
21 South 5<sup>th</sup> Street  
Philadelphia, PA 19106  
(215) 440-2688  
Terrence R. Cook, Senior Trial Attorney  
Attorneys for Plaintiff Equal Employment Opportunity Commission**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**EQUAL EMPLOYMENT )  
OPPORTUNITY COMMISSION, et al., )  
 )  
Plaintiff, )  
 )  
v. ) **CIVIL ACTION NO. 03-CV-2796**  
 )  
 )  
**FOODCRAFTERS DISTRIBUTION )  
COMPANY, et al., )  
Defendants. )****

**CONSENT DECREE**

**Introduction**

A. This action was instituted by the U.S. Equal Employment Opportunity Commission (“the EEOC” or “the Commission”) on June 11, 2003, against Foodcrafters Distributing Company, misnamed in the caption as Foodcrafters Distribution Company (“Foodcrafters”), Tropical Plant Carriers, Inc., and Little Brownie Properties, Inc., (collectively, “Defendants”) to enforce provisions of Title VII of the Civil Rights of 1964, as amended, 42 U.S.C. § 2000e et seq. (“Title VII”). The Commission alleged that Defendants discriminated against Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds and Paula Bobo and a class of female employees when it subjected them to a sexually hostile work environment in

the form of unwanted sexually offensive remarks and behaviors from male managers and co-workers at Foodcrafters' Pennsauken, New Jersey facility. The Commission also alleged that as a result of the sexually hostile work environment and the failure to remedy the harassment, despite the complaints of these Foodcrafters' female employees, Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds and Paula Bobo were constructively discharged during the time period of March 2002 through May 2002. Defendants deny all of these allegations.

B. This Consent Decree is entered into by and shall be final and binding between the EEOC and Defendants, their directors, officers, agents, successors and assigns.

C. The EEOC and Defendants agree to entry of this Consent Decree, which shall fully and finally resolve all claims the EEOC raised in its Complaint in Civil Action No. 03-cv-2796 (RBK). This Consent Decree shall not constitute either an adjudication of or finding on the merits of the Complaint and shall not be construed as an admission by Foodcrafters or any of the Defendants of any violation of Title VII.

D. The Consent Decree shall be in effect for an initial period of four (4) years from the date it is entered by the Court.

**Findings**

E. Having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings, record and stipulations of the parties, the Court finds: (1) it has jurisdiction of the parties and subject matter jurisdiction of this action; and (2) the terms of this Decree are fair, reasonable, equitable and just, and adequately protect the rights of the parties, class members and the public interest. NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

**Non-Discrimination and Non-Retaliation**

1. Foodcrafters is enjoined from harassment of any employee on the basis of sex in violation of Title VII.

2. Foodcrafters is enjoined from engaging in any employment practices which retaliate in any manner against any person, including but not limited to Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds and Paula Bobo, because of that person's opposition to any practice made an unlawful employment practice under Title VII or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title VII.

3. Foodcrafters shall not divulge, directly or indirectly, to any identifiable employer or potential employer of Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds and Paula Bobo any of the facts or circumstances related to the claims of discrimination against Foodcrafters in this case or any of the events

relating to the participation of these identified persons in the litigation of this action, unless required to do so by law.

4. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of Foodcrafters under Title VII or the EEOC's authority to process or litigate any charge of discrimination now pending or filed in the future against Foodcrafters.

**Monetary Relief**

5. Foodcrafters agrees to pay Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds and Paula Bobo the sum total of Three Hundred Eighty Four Thousand Five Hundred dollars (\$384,500.00), minus all lawful deductions and attorney's fees. This sum was agreed upon by the parties in order to resolve this matter without need for further litigation. The settlement funds will be allocated between Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds and Paula Bobo as set forth in Exhibit 1 (attached), and paid in accordance with a Release agreement with Defendants. The check(s) will be mailed to Renee Vidal, Esquire, Cureton Caplan, 3000 Midlantic Drive, Suite 200, Mt. Laurel, New Jersey 08054, and a copy within five business days thereafter to the attention of Terrence R. Cook, Senior Trial Attorney, EEOC, 21 South Fifth Street, Suite 400, Philadelphia, PA 19106-2515. In order to receive the monetary relief set forth above, Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds

and Paula Bobo will each be required to execute a Release as presented by Foodcrafters.

**Posting of Notice**

6. Within 20 business days after entry of this Decree, Foodcrafters shall post at its facilities located in New Jersey and in its corporate headquarters in Apopka, Florida, on all bulletin boards regularly used by Foodcrafters for communicating with employees, same-sized copies of the Notice attached as Exhibit 2 to this Decree. The Notice shall remain posted for four years from the date of entry of this Decree. Foodcrafters shall provide to the attention of Terrence R. Cook, Senior Trial Attorney, EEOC, 21 South Fifth Street Suite 400, Philadelphia, PA 19106-2515, a list of the locations and the date of posting in each location within 40 days after entry of this Decree. If posted copies become defaced, removed, marred or otherwise illegible, Foodcrafters agrees to post a readable copy in the same manner as heretofore specified.

**Non-Discrimination and Anti-Harassment  
Policies and Complaint Procedures**

7. Foodcrafters' policy or policies against discrimination, harassment and retaliation and complaint procedures shall be drafted in plain and simple language. Foodcrafters shall ensure that its policy or policies against discrimination, harassment and retaliation and related complaint procedures meet the following minimum criteria:

(a) Foodcrafters' policy against discrimination and harassment shall state that Foodcrafters prohibits: (i) discrimination against employees on the basis of national origin, sex, race, religion and color, and prohibits retaliation in violation of Title VII; (ii) retaliation against employees for opposing employment practices they reasonably believe are discriminatory or for participating in an investigation by the EEOC or a state or local governmental agency of a charge of discrimination under Title VII; (iii) any act, policy or practice that has the effect of harassing or intimidating any employee on the basis of national origin, sex, race, religion or color in violation of Title VII; and (iv) any act, policy or practice that has the effect of creating, facilitating or permitting the existence of a work environment that is hostile to employees through acts such as physical/verbal abuse and derogatory comments based on national origin, sex, race, religion or color in violation of Title VII;

(b) Foodcrafters' policy against discrimination and harassment shall include a complaint procedure designed to encourage employees to come forward with complaints regarding violations of its policy or policies against discrimination, harassment and retaliation, which shall meet the following minimum criteria: (i) provide effective mechanism(s) for reporting incidents of discrimination, harassment and retaliation; (ii) provide that the complaints of discrimination, harassment and/or retaliation can be made either in writing or verbally; (iii) identify employees in the Human Resources Department to whom an

employee can make a complaint; (iv) provide a 24-hour toll-free message center with instructions that an employee may call to make a complaint of discrimination, harassment or retaliation; (v) provide that, upon an employee's request to the Human Resources Department, Foodcrafters will offer assistance for filing a written complaint otherwise communicating during the investigation of a complaint; (vi) encourage prompt reporting by employees; and (vii) provide assurances that complainants shall not be subjected to retaliation;

(c) provide for prompt investigation of complaints of harassment and/or retaliation;

(d) provide for prompt communication to the complaining party of the results of the investigation and any remedial actions taken or proposed; and

(e) provide for discipline up to and including discharge of an employee or supervisor who violates Foodcrafter's policy or policies against discrimination, harassment and retaliation, and for increasingly severe discipline of repeat offenders.

8. Foodcrafters shall distribute to all of its employees and newly-hired employees in its New Jersey and Florida facilities, its policy or policies against discrimination, harassment and retaliation within 90 days after entry of this Consent Decree.

9. Within 90 days after entry of this Consent Decree, Foodcrafters shall advise Terrence R. Cook, Senior Trial Attorney, EEOC's Philadelphia District

Office, that its policy or policies against discrimination, harassment and retaliation have been distributed to current employees and that new employees will receive these policies and an opportunity to acknowledge receipt. Acknowledgment of receipt forms will be made available. Foodcrafters will retain copies of any acknowledgment of receipt form for an employee in both the employee's personnel file and in a centralized file in the corporate Human Resources Department.

10. Foodcrafters shall twice annually for the duration of the Consent Decree send a copy of its policy or policies against discrimination, harassment and retaliation to each employee.

**Supervisor Accountability**

11. Foodcrafters shall promote supervisor accountability by the following conduct:

- (a) providing annual anti-discrimination training to all of its supervisory and managerial personnel;
- (b) disciplining, up to and including discharge of any supervisor or manager who violates Foodcrafters' policy or policies against discrimination, harassment and retaliation;
- (c) imposing on all managers and supervisory personnel a duty to administer their work areas to ensure compliance with Foodcrafters' policy or policies against discrimination, harassment and retaliation; and



(d) requiring all managers and supervisors to report any incidents and/or complaints of harassment and/or retaliation of which they become aware to the Human Resources Department.

### **Training**

12. Foodcrafters shall provide training on the requirements of Title VII as follows:

(a) Foodcrafters agrees to provide annual training sessions for all of its managers and supervisors in New Jersey and Florida, and to all Human Resources Department employees by a trainer or vendor approved by the EEOC to provide training on employee rights and employer obligations under both Title VII and relevant state or local anti-discrimination laws, which training will emphasize what constitutes unlawful harassment and discrimination in the workplace, how to keep the company free from such discrimination, what constitutes unlawful retaliation and will summarize how to conduct a prompt and effective investigation into allegations, complaints or charges of discrimination;

(b) each training session will include a videotaped presentation by a high-ranking official of Foodcrafters, emphasizing Foodcrafters' commitment to prevent discrimination and harassment;

(c) Foodcrafters shall first provide training in accordance with Paragraph 12 by no later than 120 calendar days after entry of this Consent Decree.

(d) In addition to the training described in Paragraph 12 within 120

calendar days of the entry of the Consent Decree, Foodcrafters shall provide training to all employees and supervisors in its Human Resources Department regarding how to conduct a prompt and effective investigation into allegations, complaints or charges of employment discrimination.

(e) Foodcrafters shall obtain the EEOC's approval of its proposed trainer prior to each year's training sessions.

(f) Foodcrafters agrees at its expense to provide the EEOC with copies of all pamphlets, brochures, outlines or other written materials provided to attendees of training sessions. Even though the EEOC has approved of or designated a trainer to provide training for one year, it is not required to approve of or designate the same trainer for future training sessions.

(g) Foodcrafters shall certify to the EEOC in writing within 10 business days after the training sessions required by Paragraph 12 has occurred that the training has taken place and the personnel who attended. Such certification shall include: (i) the dates, location and duration of the training session; (ii) a copy of the registry of attendance, including the name and position of each person in attendance; and (iii) a listing of all managers and supervisors in New Jersey and Florida and all employees and supervisors in its Human Resources Department as of the date of the training.

**Recordkeeping**

13. For a period of four years following entry of this Decree, Foodcrafters shall document and retain in a centralized file in Corporate Human Resources records of each complaint of an incident of discrimination or harassment, based on sex and/or retaliation by any employee in Foodcrafters' New Jersey or Florida facilities, reflecting the date the complaint was made, who made it, what was alleged and the actions, if any, Foodcrafters took to resolve the matter, and shall, at its expense, make such records available for inspection and copying by the EEOC. Foodcrafters also shall maintain records of all actions it takes to prevent discrimination and harassment at all of its facilities, work sites and contract sites in New Jersey and Florida during the term of this Consent Decree.

14. Foodcrafters shall make all documents or records referred to in Paragraph 13 available for inspection and copying within 10 business days after the EEOC so requests. In addition, Foodcrafters shall make available for interview all persons in its employ whom the EEOC reasonably requests for purposes of verifying compliance with this Decree and shall permit a representative of the EEOC to enter Foodcrafters' premises for such purposes on five business days' advance notice by the EEOC.

15. Nothing in this Decree shall be construed to limit any obligation Foodcrafters otherwise may have to maintain records under Title VII or any other

law or regulation. After expiration of this Consent Decree, records will be maintained by Foodcrafters as required by law and Commission regulations.

**Reporting**

16. Foodcrafters shall furnish to the EEOC the following written reports semi-annually for a period of four years following entry of this Decree with the first report due six months after entry of the Decree and the final report due 48 months after entry of the Decree. Each such report shall contain:

(a) for any complaint made by an employee of Foodcrafters, a summary of the information recorded by Foodcrafters, including the name of the complainant, the allegation of the complaint and any action taken by Foodcrafters in response;

(b) a certification by Foodcrafters that the Notice required to be posted by Paragraph 6 was posted during the six months preceding the report;

(c) a certification by Foodcrafters that it has or will distribute the policy or policies against discrimination, harassment and retaliation twice annually to employees, and that Foodcrafters has disseminated the policy or policies against discrimination, harassment and retaliation to all new employees hired within the six-month period preceding the report;

(d) a certification that Foodcrafters has complied with training requirements of this Consent Decree;

(e) a summary of any additional actions Foodcrafters took to prevent discrimination, harassment and retaliation at all of its facilities, work sites and contract sites, in their New Jersey and Florida locations, during the six-month period preceding the report.

#### **Dispute Resolution**

17. In the event either party to this Decree believes the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance within 20 days of the alleged non-compliance and afford the alleged non-complying party 20 business days to remedy the non-compliance or satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within 20 business days, the complaining party may apply to the Court for appropriate relief. Except for claims involving the Title VII rights of Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds and Paula Bobo, this Decree shall not be deemed as a waiver by Foodcrafters of any defenses, procedural or otherwise, to any claim that Foodcrafters violated Title VII.

#### **Miscellaneous Provisions**

18. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.

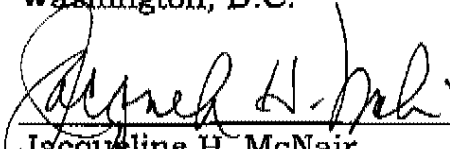
19. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, successors and assigns of Foodcrafters in their capacities as representatives, agents, directors and officers of Foodcrafters and not in their individual capacities. This paragraph shall not be construed as placing any limit on remedies available to the Court in the event any individual is found in contempt for a violation of this Decree.

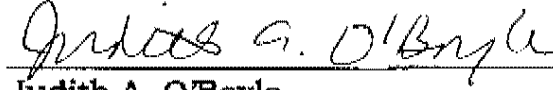
20. This Consent Decree shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 03-CV-2796 (RBK).

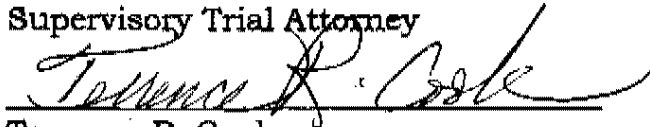
21. This Consent Decree shall be filed in the United States District Court for the District of New Jersey and shall continue in effect for four years. During this time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate its purposes. Any application by any party to modify or vacate this Consent Decree during such period shall be made by motion to the Court on no less than 30 days' notice to the other party. Should any material disputes under this Decree remain unresolved after this four-year period, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Consent Decree) until such time as all disputes have been resolved.


22. The Clerk of the District Court is hereby directed to send a file-stamped copy of this Consent Decree to counsel of record.

Gwendolyn Young Reams  
Associate General Counsel  
Washington, D.C.

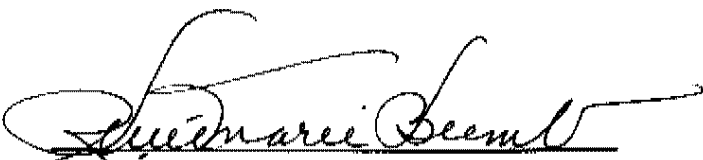
  
\_\_\_\_\_  
Jacqueline H. McNair  
Regional Attorney

  
\_\_\_\_\_  
Judith A. O'Boyle  
Supervisory Trial Attorney

  
\_\_\_\_\_  
Terrence R. Cook  
Trial Attorney  
Philadelphia District Office  
21 S. 5<sup>th</sup> Street, Suite 400  
Philadelphia, PA 19106  
(215) 440-2683

  
\_\_\_\_\_  
Richard Whitaker, Esquire  
301 East Pine Street, Suite 150  
Orlando, FL 32801  
Attorneys for Defendants

SO ORDERED:

By the Court:   
\_\_\_\_\_  
RENEE MARIE BUMB  
UNITED STATES DISTRICT JUDGE

Date: September 8, 2006

Exhibit 1

**EEOC, et al., v. Foodcrafters, et al., C.A No. 03-2976 (RBK)**

**Allocation of Settlement Proceeds**

Eileen Horner	\$47,500.00
Danelle Horner	\$37,500.00
Leighanne Reynolds	\$33,500.00
Dayna Horner	\$27,500.00
Paula Bobo	\$27,500.00
Total	\$173,500.00



Exhibit 2

NOTICE TO ALL EMPLOYEES OF FOODCRAFTERS

This Notice is posted pursuant to a Consent Decree entered by the federal court for the District of New Jersey in EEOC v. Foodcrafters Distribution Company, Tropical Plant Carriers, Inc., and Little Brownie Properties, Inc., Civil Action Number 03-CV-2796 (RBK), resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Foodcrafters ("Foodcrafters").

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., as amended ("Title VII"), prohibits discrimination against employees and applicants for employment based upon national origin, sex, race, color or religion. Title VII further prohibits retaliation against employees or applicants who avail themselves of the rights under Title VII by engaging in protected activities, such as filing a charge of discrimination and/or testifying or participating in a Commission investigation. The EEOC is the federal agency which investigates charges of unlawful employment discrimination. The EEOC has the authority to bring lawsuits in federal court to enforce Title VII.

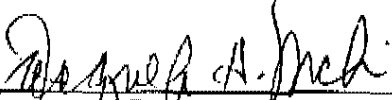
In its lawsuit, the EEOC alleged that Foodcrafters subjected a class of female employees to harassment based on sex, and constructively discharged the class of female employees in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Foodcrafters denies these allegations.

To resolve the case, Foodcrafters and the EEOC have entered into a Consent Decree which provided, among other things, that: (1) Foodcrafters remunerate the class of female employees; (2) Foodcrafters not discriminate on the basis of sex, in the future; (3) Foodcrafters not retaliate against any person because he or she opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and (4) Foodcrafters will train all managers and supervisors in New Jersey and Florida and all employees and supervisors in its Human Resources Department regarding discrimination, harassment and retaliation, and regarding its policy prohibiting discrimination, harassment and retaliation.

If you believe you have been discriminated against, you may contact the EEOC at (215) 440-2600. The EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for four years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to the: Regional Attorney, EEOC Philadelphia District Office, 21 South 5th Street, Philadelphia, PA 19106.

  
U.S. Equal Employment Opportunity  
Commission

  
Foodcrafters Distributing Company

DATED: 9/6/06

DATED: August 31, 2006