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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

-----X	
<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	:
<b>COMMISSION,</b>	:
	:
<b>Plaintiff,</b>	:
	: <b>Civil Action No. 06-CV-2670(WJM-MF)</b>
<b>-against-</b>	:
	:
<b>WASHINGTON GROUP INTERNATIONAL,</b>	:
<b>INC. and 21<sup>ST</sup> CENTURY RAIL CORP.,</b>	:
	:
<b>Defendants.</b>	:
-----X	

**CONSENT DECREE**

## **PART I GENERAL PROVISIONS**

### **Section 101 Introduction**

Plaintiff Equal Employment Opportunity Commission ("EEOC") has filed a Complaint in the United States District Court for the District of New Jersey, Docket No. 06-CV-2640 captioned Equal Employment Opportunity Commission v. Washington Group International, Inc. and 21<sup>st</sup> Century Rail Corp. (the "Complaint"). EEOC and Defendants Washington Group International, Inc. ("WGI") and 21st Century Rail Corp. (collectively "Defendants") have agreed to resolve this action by the terms of this Consent Decree ("Decree") as set forth below.

### **Section 102 Purpose of the Decree**

A. The parties, defined as EEOC and Defendants, desire to settle this action, and therefore do hereby stipulate and consent to the entry of this Decree as final and binding between the parties and their successors, assigns, subsidiaries, affiliates, any other corporation or other entity that acquires either or both Defendants, and any other corporation or other entity into which either or both Defendants may merge or with which either or both Defendants may consolidate. Defendants shall provide notice and a copy of this Decree to any successors, assigns, subsidiaries, affiliates, any other corporation or other entity that acquires either or both Defendants, and any other corporation or other entity into which either or both Defendants may merge or with which either or both Defendants may consolidate.

B. The Decree resolves all issues relating to the allegations in the Complaint, Keisha Bennett's EEOC Charge of Discrimination number 171-2005-01155 ("Bennett Charge"), and Martha Espinal's EEOC Charge of Discrimination number 171-2005-00877 ("Espinal Charge") which served as the jurisdictional prerequisites in this case. The Decree does not resolve any charge of discrimination currently pending before EEOC, or any charge that may be filed in the future, other than the charges listed above. EEOC reserves all rights to proceed regarding matters

not covered in this Consent Decree and Exhibits hereto.

C. The terms of this Decree represent the full and complete agreement of the parties. The parties agree that this Decree may be entered into without Findings of Fact and Conclusions of Law being made and entered by the Court. This Decree shall not in any manner be deemed or construed as an admission by Defendants that they acted wrongfully and/or illegally in any manner with respect to Keisha Bennett or Martha Espinal (collectively "Charging Parties").

**Section 103 Prohibited Conduct and Injunction to Not Discriminate**

A. Defendants, their successors, assigns, purchasers, and managers, officers and agents acting on behalf of either or both Defendants are hereby enjoined at the Hudson Bergen County Light Rail Transit system from discriminating against any individual because of the individual's sex and from retaliating against any individual at the Hudson Bergen County Light Rail Transit system because that individual is a beneficiary of this Decree, has filed a complaint, or has provided information, assistance, or participated in any other manner in the investigation or litigation of this matter.

B. Nothing in this Decree shall be construed to limit or reduce Defendants' obligations to comply with the statutes enforced by EEOC: Title VII of the 1964 Civil Rights Act, as amended, 42 U.S.C. §2000e, et seq.; Title I of the Americans with Disabilities Act, 42 U.S.C. §12101, et seq.; Age Discrimination in Employment Act, 29 U.S.C. §621, et seq., and; Equal Pay Act, 29 U.S.C. §206(d).

**Section 104 Consent to Jurisdiction**

A. EEOC and Defendants agree that this Court has jurisdiction over the subject matter of this litigation and the parties for the duration of this Decree, that venue is proper, and all administrative prerequisites have been met. No party shall contest the validity of this Decree or the jurisdiction of the federal district court to enforce this Decree and its terms.

B. The Court shall retain jurisdiction over this action for the duration of the Decree for all purposes including, but not limited to, the entering of all orders, judgments, and decrees as necessary to implement the relief provided herein. In any action to enforce the terms of this Decree, the Court will have full authority to order any remedy the Court deems appropriate, including, but not limited to, specific performance and/or extension of the Decree beyond the two (2) year term.

**Section 105 Applicability of Decree to Successors and Assigns and Upon Purchase, Merger or Consolidation**

Defendants shall provide notice and a copy of this Decree to any successors, assigns, subsidiaries, affiliates, any other corporation or other entity that acquires either or both Defendants, and any other corporation or other entity into which either or both Defendants may merge, or with which either or both Defendants may consolidate. The successors, assigns, acquiring entities, and any surviving entities upon merger or consolidation shall be fully liable for complying with the terms of the Decree. Defendants shall provide written notice to EEOC within forty-five (45) days of any assignment, succession, acquisition, merger, or consolidation affecting either or both Defendants.

**Section 106 Implementation of the Decree**

EEOC and Defendants agree to take all steps that may be necessary to fully effectuate the terms of this Decree.

**Section 107 Amendments to the Decree**

By mutual consent of the parties, this Decree may be amended in the interests of justice and fairness and to facilitate execution of the Decree's provisions. No waiver, modification, or amendment of any provision of this Decree shall be effective unless made in writing, approved by all parties to this Decree, and approved or ordered by the Court.

**Section 108 Duration of the Decree**

The Decree shall remain in effect for two (2) years from the effective date of the Decree. The effective date of the Decree shall be the date it is signed by and receives final approval from the Court. The Decree shall not expire against any signatory while any enforcement action is pending against that signatory.

**Section 109 Severability**

If one or more provisions of this Decree are rendered unlawful or unenforceable as a result of a legislative act or a decision by a court of competent jurisdiction, the following shall apply to insure that the Decree continues to effectuate the intent of the parties. The provisions of this Decree which are not rendered unlawful, unenforceable, or incapable of performance as a result of such legislative act or court decision shall remain in full force and effect and the parties' responsibilities shall not abate as to any and all provisions that have not been rendered unlawful or unenforceable except to the extent that the intent of the Decree would be undermined.

**Section 110 Breach of Decree**

A breach of any term of this Decree by any party shall be deemed a material and substantive breach of the Decree. The parties agree that they will cooperate to effectuate and implement all terms and conditions of this Decree and exercise good faith efforts to accomplish the terms and conditions of this Decree. The parties shall not bring any action pertaining to a breach of this Decree, whether for injunctive or other relief, without first providing the other party with fourteen (14) days notice of any alleged violation(s) of this Decree unless providing such notice would compromise the public interest. EEOC and Defendants agree to confer regarding any dispute arising from the implementation of this Decree unless doing so would compromise the public interest. In the event the parties are unable to resolve this dispute, any action relating to this Decree shall be filed in the Court that approves this Decree. Nothing in this Decree shall be construed to

preclude either party from bringing proceedings to enforce this Decree following notice and a conference of the parties as set forth herein. This Decree shall be construed under applicable federal law.

**Section 111 Notices**

Except as otherwise provided for in this Decree, all notifications, reports, and communications to the parties required under this Decree shall be made in writing and shall be sufficient as hand-delivered, faxed, or sent by certified, registered, or overnight mail to the following persons (or their designated successors):

For EEOC:                   Konrad Batog  
                                  Equal Employment Opportunity Commission  
                                  33 Whitehall Street, 5th Floor  
                                  New York, New York 10004  
                                  Fax: (212) 336-3623

For Defendants:         Robert Berlin  
                                  Washington Group International, Inc.  
                                  720 Park Boulevard Boise, ID 83729  
                                  Fax: (208) 386-5833

Any party may change such addresses by written notice to the other parties that set forth a new address for this purpose. Notwithstanding the provisions for notification contained in this paragraph, the parties may, after agreement memorialized in writing, send each other such notifications, reports, and communications by email.

**PART II       SYSTEMIC RELIEF**

**Section 201   Posting and Distribution of Notices**

**A.       Posting of Notice of Resolution**

Within thirty (30) days of the effective date of this Decree, Defendants shall conspicuously post and maintain a "Notice of Resolution" regarding this lawsuit (attached as Exhibit "A") at the 20 Caven Point Road location of the Hudson Bergen County Light Rail

Transit system in places where employee notices are posted. Defendants shall certify to EEOC within fourteen (14) days after Defendants have posted the Notice of Resolution pursuant to this Section. The Notice of Resolution shall remain posted for the duration of the Decree.

**B. Posting of EEO Posters**

Defendants shall post and maintain EEO posters within twenty (20) days of the effective date of this Decree in places visually accessible to all applicants and employees of Defendants at the 20 Caven Point Road location of the Hudson Bergen Light Rail Transit system as required by federal regulations. Defendants shall certify to EEOC within twenty five (25) days that they have posted EEO posters pursuant to this Section.

**Section 202 Training**

**A. Initial Training**

**1. Approval by EEOC**

Within sixty (60) days of the effective date of the Decree, Defendants shall submit proposed training programs for all of their non-supervisory employees, supervisory and management employees, and human resource employees at the Hudson Bergen County Light Rail Transit system to EEOC for its review and approval. Each training program will include the following: (a) a detailed agenda with proposed training materials, (b) curricula vitae(s) for the individual(s) who will conduct the training, and (c) a plan to ensure that all employees receive the required training. Defendants shall implement any changes to the training programs recommended by the EEOC which are consistent with the term of the Decree and submit amended training materials to EEOC for review and approval within forty five (45) days after receiving EEOC's proposed changes. The training programs will be conducted by an outside consultant approved by EEOC.

**2. Content and Duration of the Initial Training**

The initial training shall review the rights and responsibilities of employees under federal

anti-discrimination laws and how such laws define unlawful discrimination. The training shall include examples of unlawful conduct. The training also will cover Defendants' anti-discrimination policies and procedures with particular emphasis on the internal complaint, investigation, and remediation process, and an employee's right to file with EEOC and state or local agencies. The training shall be at least ninety (90) minutes in duration.

**3. Scheduling and Confirmation of Training**

Within three (3) months of receiving approval of the initial training program from EEOC, Defendants shall complete all initial training programs. All active, non-supervisory employees, supervisory and management employees, and human resource employees at the 20 Caven Point Road location of the Hudson Bergen County Light Rail Transit system shall attend the appropriate initial training session. Defendants shall not be required to provide training to employees who are not active or on leave for the duration of the Decree. Within twenty (20) days of any training session, Defendants shall provide EEOC with an attendance sheet that includes the date, the names of those in attendance, and the signatures of those in attendance.

**B. Annual Training**

**1. Annual Training for Non-supervisory Employees**

During the second year of the Decree, Defendants will provide all non-supervisory employees with at least one (1) hour of EEO training as described below in sub-paragraph 5.

**2. Annual Training for Management and Supervisory Employees**

During the second year of the Decree, Defendants will provide all supervisory and management employees with at least ninety (90) minutes of EEO training as described below in sub-paragraph 5.

**3. Annual Training for Human Resources Employees**



During the second year of the Decree, Defendants will provide all human resource employees with at least ninety (90) minutes of EEO training as described below in sub-paragraph 5.

4. Defendants shall not be required to provide annual training to employees who are not active or on leave for the duration of the Decree

**5. Required Subjects of Annual Training**

The annual training programs shall include:

a. For non-supervisory, supervisory and management, and human resources employees, instruction on the requirements of all applicable equal employment opportunity laws including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, the Pregnancy Discrimination Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Equal Pay Act, and a review of Defendants' non-discrimination policies and procedures with particular emphasis on the complaint procedure.

b. For supervisory, management, and human resources employees, instruction on any policies and requirements related to this Decree and instruction on the specific requirements of this Decree and the proper procedures for responding to complaints of discrimination or harassment. Counsel for Defendants shall provide the annual training on policies and requirements related to this Decree.

**C. Training for New Employees**

1. Defendants shall provide thirty (30) minutes of training for all new employees during the new employee orientation on or about the employee's first day of employment. The training shall review the rights and responsibilities of employees under federal anti-discrimination laws and how such laws define unlawful discrimination. The training shall include examples of unlawful conduct. The training also will cover Defendants' anti-discrimination policies and procedures with particular emphasis on the internal complaint,

investigation, and remediation process, and an employee's right to file with EEOC and state or local agencies. Such training shall be conducted by the Human Resources Manager or the individual or entity providing the initial and/or annual training.

**D. Reporting Requirements for Training**

All employees attending any training session described in the above paragraphs shall print and sign their full name on an attendance sheet. Within thirty (30) days of the completion any training described in the preceding paragraphs, Defendants shall provide EEOC with copies of all attendance sheets.

**E. Pre-Training Notification Requirement**

At least thirty (30) days prior to the Initial and Annual trainings required under this Section, Defendants will provide EEOC notice of the date, time, and location of the scheduled training. EEOC, at its discretion, may attend and observe one or more of the training sessions and may provide changes to be implemented by the trainer which are consistent with the terms and conditions of this Decree.

**Section 203 Monitoring and Reporting**

**A. Monitoring by EEOC**

EEOC may monitor Defendants' compliance with the Decree for the duration of the Decree through the inspection of the premises and records at the 20 Caven Point Road location of the Hudson Bergen County Light Rail Transit system, and interviews with Defendants' officers, agents, employees, and contractors at the 20 Caven Point Road location of the Hudson Bergen County Light Rail Transit system, pertaining to this Decree at reasonable times agreeable to Defendants and upon fourteen (14) days prior written notice of the EEOC to Defendants and their counsel. Defendants are permitted to designate a representative, including but not limited to outside counsel, who shall be permitted to attend any interviews of management or supervisory employees

conducted by the EEOC.

**B. Reporting Requirements for Discrimination Complaints**

For the duration of this Decree, every four (4) months beginning thirty (30) days after the effective date of this Decree, Defendants shall provide a written report to EEOC with information regarding any verbal or written complaints of sex discrimination from employees or applicants pertaining to the Hudson Bergen County Light Rail Transit system which were received during the preceding four (4) months. The report shall include the name of the complainant, the name of the alleged discriminator, a list of each step taken by Defendants during the investigation, a summary of the complaint, the location, the results of any investigation of the complaint, and any remedial action taken by Defendants. The report shall include all open complaints and all complaints closed or resolved within the prior four (4) months.

**C. Reporting Requirement for Available Transportation Supervisor Positions**

For the duration of this Decree, every four (4) months beginning thirty (30) days after the effective date of this Decree, Defendants shall provide a written report to EEOC with information regarding any available transportation supervisor position. The report shall include the name of the position, the date the position became available, how the position was advertised, the name of all applicants for the position, the sex of all applicants for the position, the name of the individual selected for the position, the date the individual was selected for the position, and the name of the decision maker(s) who selected the individual for the position.

**Section 204 Compliance with Record-keeping Requirements**

**A. Record Retention**

For the duration of the Decree, Defendants agrees to maintain such records as are necessary to demonstrate its compliance with the Decree and 29 C.F.R. §1602 et seq. and to verify that the reports submitted pursuant to the Decree are accurate.

### **PART III MONETARY RELIEF**

#### **Section 301 Monetary Relief for Keisha Bennett and Martha Espinal**

A. Within fifteen (15) days of receipt by Defendants in accordance with the notice requirements set forth herein of the Releases attached hereto as Exhibits "B" and "C" signed by Keisha Bennett and Martha Espinal respectively, Defendants agree to pay the total gross sum of seventy thousand dollars (\$70,000) on the terms provided for below:

1. Defendants agree to pay Keisha Bennett the total sum of ten thousand dollars (\$10,000), less lawful deductions, as back wages and provide Keisha Bennett an IRS W-2 FORM. Defendants shall send the check and IRS W-2 FORM, via certified mail, return receipt requested to Keisha Bennett. A copy of the check shall be forwarded to EEOC immediately upon issuance of the check.

2. Defendants agree to pay Keisha Bennett the total sum of twenty-five thousand dollars (\$25,000) as non pecuniary compensatory damages and provide Keisha Bennett an IRS FORM 1099. Defendants shall send the check and IRS FORM 1099, via certified mail, return receipt requested to Keisha Bennett. A copy of the check shall be forwarded to EEOC immediately upon issuance of the check.

3. Defendants agree to pay Martha Espinal the total sum of ten thousand dollars (\$10,000.00), less lawful deductions, as back wages and provide Martha Espinal an IRS W-2 FORM. Defendants shall send the check and IRS W-2 FORM, via certified mail, return receipt requested to Martha Espinal. A copy of the check shall be forwarded to EEOC immediately upon issuance of the check.

4. Defendants agree to pay Martha Espinal the total sum of twenty-five thousand dollars (\$25,000) as non pecuniary compensatory damages and provide Martha Espinal an IRS FORM 1099. Defendants shall send the check and IRS FORM 1099, via

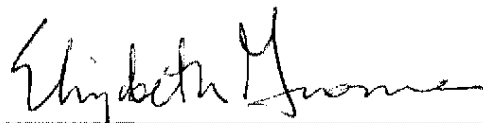
certified mail, return receipt requested to Martha Espinal. A copy of the check shall be forwarded to EEOC immediately upon issuance of the check.

**PART IV SIGNATURES**

Each signatory to this Decree represents that each is fully authorized to execute this Decree and to bind the parties on whose behalf each signs.

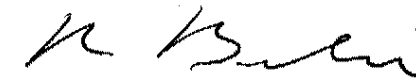
APPROVED IN FORM AND CONTENT:

By Plaintiff EEOC:



Elizabeth Grossman  
Regional Attorney  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
New York District Office  
33 Whitehall Street, 5<sup>th</sup> Floor  
New York, New York, 10004

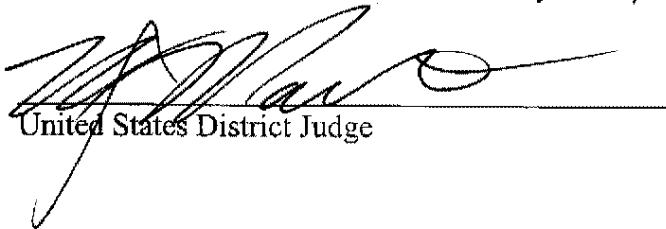
For Defendant Washington Group International, Inc.



For Defendant 21<sup>st</sup> Century Rail Corp.

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SO ORDERED this 3 day of October, 2007.



United States District Judge

certified mail, return receipt requested to Martha Espinal. A copy of the check shall be forwarded to EEOC immediately upon issuance of the check.

**PART IV SIGNATURES**

Each signatory to this Decree represents that each is fully authorized to execute this Decree and to bind the parties on whose behalf each signs.

APPROVED IN FORM AND CONTENT:

By Plaintiff EEOC:

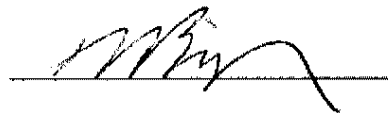
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Elizabeth Grossman  
Regional Attorney  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
New York District Office  
33 Whitehall Street, 5<sup>th</sup> Floor  
New York, New York, 10004

For Defendant Washington Group International, Inc.

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For Defendant 21<sup>st</sup> Century Rail Corp.



SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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United States District Judge

**EXHIBIT A**

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
New York District Office**

**NOTICE TO ALL EMPLOYEES**

This Notice is being posted pursuant to a Consent Decree between the U.S. Equal Employment Opportunity Commission ("EEOC") and Washington Group International, Inc. and 21st Century Rail Corp.

Federal law prohibits employers from discriminating against applicants and employees based on national origin, religion, race, color, sex, age or disability. Washington Group International, Inc. and 21st Century Rail Corp., their managers, officers, and agents will support and comply with Federal law prohibiting discrimination against any employee or applicant for employment because of an individual's sex with respect to hiring, firing, compensation, or other terms, conditions, or privileges of employment.

Washington Group International, Inc. and 21<sup>st</sup> Century Rail Corp. will not take any action against employees because they have exercised their rights under the law by filing charges or cooperating with the U.S. Equal Employment Opportunity Commission or by otherwise opposing employment practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

Should you have any complaints or questions regarding employment discrimination, contact the EEOC at:

Equal Employment Opportunity Commission  
(800) 669-4000  
Website: [www.eeoc.gov](http://www.eeoc.gov)

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

***THIS NOTICE WILL REMAIN POSTED FOR TWO YEARS FROM THE DATE SHOWN ABOVE  
AND MUST NOT BE ALTERED, DEFACED OR COVERED BY OTHER MATERIAL.  
[TO BE RE-ISSUED AND REPLACED IF DESTROYED OR TATTERED]***

EXHIBIT B

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

-----X	
EQUAL EMPLOYMENT OPPORTUNITY	:
COMMISSION,	:
	:
Plaintiff,	:
	: Civil Action No. 06-CV-2670(WJM-MF)
-against-	:
	:
WASHINGTON GROUP INTERNATIONAL,	:
INC. and 21 <sup>ST</sup> CENTURY RAIL CORP.,	:
	:
Defendants.	:
-----X	

RELEASE OF KEISHA BENNET

In consideration for thirty-five thousand dollars (\$35,000) paid to me by Washington Group International, Inc. and 21<sup>st</sup> Century Rail Corp. in connection with the resolution of EEOC v. Washington Group International, Inc. and 21<sup>st</sup> Century Rail Corp. (06-CV-2670), I release Defendants from and waive my right to recover for any claims of race discrimination or sex discrimination arising under Title VII that I had against Defendants prior to the date of this release and that were included in the claims alleged in EEOC's Complaint against Defendants or brought in my EEOC Charge, Bennett v. Washington Group International, Charge Number 171-2005-01155.

Date: 8/20/07

Signature: Keisha Bennett



EXHIBIT C

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

-----X  
**EQUAL EMPLOYMENT OPPORTUNITY** :  
**COMMISSION,** :  
: :  
**Plaintiff,** :  
: **Civil Action No. 06-CV-2670(WJM-MF)**  
**-against-** :  
: :  
**WASHINGTON GROUP INTERNATIONAL,** :  
**INC. and 21<sup>ST</sup> CENTURY RAIL CORP.,** :  
: :  
**Defendants.** :  
-----X

RELEASE OF MARTHA ESPINAL

In consideration for thirty-five thousand dollars (\$35,000) paid to me by Washington Group International, Inc. and 21<sup>st</sup> Century Rail Corp. in connection with the resolution of EEOC v. Washington Group International, Inc. and 21<sup>st</sup> Century Rail Corp. (06-CV-2670), I release Defendants from and waive my right to recover for any claims of sex discrimination arising under Title VII that I had against Defendants prior to the date of this release and that were included in the claims alleged in EEOC's Complaint against Defendants or brought in my EEOC Charge, Espinal v. Washington Group International, Charge Number 171-2005-00877.

Date: 8-20-07

Signature: Martha Espinal