

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

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

04 SEP 22 AM 11:43

OLENA L. QUERQUE

Plaintiff,

vs.

No. CV-02-1212 BB/LAM

BELL GAS INC., CORTEZ GAS COMPANY,
and ABC PROPANE, INC., d/b/a AWC PROPANE,

Defendants.

CONSENT DECREE

This matter came before the Court upon the agreement of all parties to enter into a consent decree for the purposes of settling all claims asserted against the defendants in this lawsuit. The Court finds that the parties have agreed as follows:

1. The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action against Bell Gas, Inc., Cortez Gas Company, and ABC Propane, Inc., d/b/a AWC Propane ("AWC" or "Defendants"), to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.* ("Title VII"). In the Complaint the Commission alleged that Evelyn Silva was retaliated against by the Defendants for opposing unlawful employment practices and/or because she made a charge and participated in proceedings protected by Title VII. The Complaint also alleged that Defendants failed to make and preserve employment records as required by Section 709(c) of Title VII.

2. The Defendants denied all allegations of the Plaintiff and affirmatively stated that Ms. Silva was not subjected to retaliation and that the Defendants did not fail to make and

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preserve Ms. Silva's employment records. Defendants Bell Gas, Inc. and Cortez Gas, Inc. also asserted that they were not Ms. Romero's employer and were improper defendants.

3. Defendants acknowledge that Title VII prohibits employers from unlawfully discriminating against an employee on the basis of race, color, religion, sex or national origin or retaliating against an employee who: (a) opposes practices made unlawful by Title VII or a state equal employment statute, (b) makes a charge of discrimination or assists or participates in an investigation or proceeding under Title VII or a state equal employment statute, or (c) files an internal complaint of discrimination.

4. The parties do not object to the jurisdiction of the Court over this action and waive their rights to a hearing and the entry of Findings of Fact and Conclusions of Law.

5. This Decree resolves all claims of the Commission against the Defendants, including compensatory and back pay damages sought on behalf of Ms. Silva, injunctive relief, attorney's fees and costs arising out of the issues in this lawsuit.

6. In accordance with this Decree, Evelyn Silva shall receive Thirty-Six Thousand Dollars (\$36,000.00) to be paid by the Defendants as follows: One Thousand Five Hundred Dollars (\$1,500.00) per month for twenty-four (24) months beginning on October 1, 2004.

7. The checks provided for in paragraph 6 of this decree shall be made payable to Evelyn Silva and shall be mailed to the address provided by EEOC.

8. Within ten (10) days of issuance of the checks required by paragraph 6 above, Defendant shall submit a copy of the checks and related correspondence to the Regional Attorney, Equal Employment Opportunity Commission, Albuquerque District Office, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189.

9. If defendants fail to make a monthly payment under paragraph 6 within 15 days of its due date, then defendants shall pay a late fee of Seventy-Five Dollars (\$75.00) in addition to the monthly payment. The accrual of late fees shall not be a bar to the Commission seeking Court enforcement of the Decree.

10. Defendant, Bell Gas, Inc., is already the subject of a Consent Decree entered in the matter of *Equal Employment Opportunity Commission, Plaintiff, Christine Romero, Plaintiff-in-Intervention v. Bell Gas, Inc., et al, Defendants*, CIV-02-1090 WPJ/ACT, filed in the United States District Court for the District of New Mexico on April 6, 2004. A copy of that Consent Decree is attached hereto as Exhibit A. It is understood and agreed that as consideration for the settlement herein, Bell Gas, Inc. is obligated to undertake the policies and training provided in paragraphs 9 through 14 of the Consent Decree attached as Exhibit A. In addition, Defendants Cortez Gas Company and ABC Propane, Inc., d/b/a AWC Propane, shall also participate in the policies and training set forth in paragraphs 9 through 14 of the Consent Decree attached hereto as Exhibit A.

11. The parties agree to entry of this decree, subject to final approval by the Court.

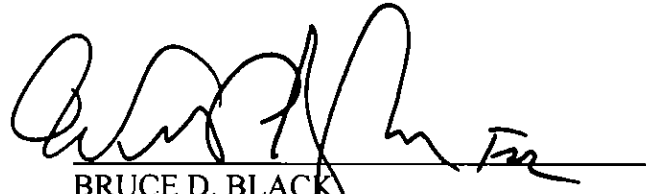
12. In response to any employment inquiries or reference checks concerning Ms. Silva, defendants shall only provide only Ms. Silva's dates of employment, position held, job duties and salary.

13. Upon entry of this Consent Decree, this case, as it relates to the claims by Plaintiff, shall be dismissed with prejudice, with the Court retaining jurisdiction for the purposes of enforcement of the terms of this Consent Decree. Each party will bear its own attorney's fees and costs.

IT IS THEREFORE ORDERED, ADJUSTED AND DECREED as follows:


- A. The settlement, including the terms of this Consent Decree, is hereby approved.
- B. Each party shall bear its own attorney's fees and costs.
- C. All claims asserted by the Plaintiff against the Defendants are hereby dismissed

with prejudice, with the Court retaining jurisdiction for the purposes of enforcement of this Consent Decree during its two (2) year term.



BRUCE D. BLACK
United States District Judge

APPROVED AND CONSENTED TO:

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Attorneys for Plaintiff


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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

APR 6 2004

Plaintiff,

CHRISTINE ROMERO.

CLERK

Plaintiff in Intervention

v.

CIV-02-1090 WPJ/ACT (ACE)

BELL GAS, INC., et al

Defendants.

CONSENT DECREE

This matter came before the Court upon the agreement of all parties to enter into a consent decree for the purposes of settling all claims asserted against the defendants in this lawsuit. The Court finds that the parties have agreed as follows:

1. The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action against Bell Gas Incorporated, A-X Propane, Inc., Cortez Gas Company, Black Gold Energy Corporation, d/b/a A-X Express Mart and Conoco #155, of Socorro, New Mexico ("Defendant"), to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.* ("Title VII"). In the Complaint the Commission alleged that the Defendants subjected Christine Romero to verbal and physical sexual harassment by her immediate supervisor, Ray Hidalgo, which created a hostile work environment. The Commission also alleged in the Complaint that Christine Romero was retaliated against by the Defendants for complaining about the sexual harassment and, as a result, Christine Romero was either discharged or constructively discharged by the Defendants in

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violation of Title VII.

2. The Defendants denied all allegations of the Plaintiff and Plaintiff-in-Intervention and affirmatively stated that Ms. Romero was not subjected to a hostile work environment and that the Defendants exercised reasonable care to prevent and properly correct any alleged sexual harassment. Defendants Bell Gas, Inc., Cortez Gas Company and Black Gold Energy Corporation also asserted that they were not Ms. Romero's employer and were improper defendants. The Defendants also denied that Ms. Romero was retaliated against for engaging in protected conduct.

3. Defendants acknowledge that Title VII prohibits employers from unlawfully discriminating against an employee on the basis of race, color, religion, sex or national origin or retaliating against an employee who: (a) opposes practices made unlawful by Title VII or a state equal employment statute, (b) makes a charge of discrimination or assists or participates in an investigation or proceeding under Title VII or a state equal employment statute, or (c) files an internal complaint of discrimination.

4. The parties do not object to the jurisdiction of the Court over this action and waive their rights to a hearing and the entry of Findings of Fact and Conclusions of Law.

5. This Decree resolves all claims of the Commission against the Defendants, including compensatory and back pay damages sought on behalf of Ms. Romero, injunctive relief, attorney's fees and costs arising out of the issues in this lawsuit.

6. In accordance with this Decree and with her signed Release and Indemnifying Agreement, Christine Romero shall receive the following payments from the defendants:

A. Sixty thousand dollars (\$60,000.00) to be paid within ten days of the entry of this Decree.

B. Two thousand dollars (\$2,000.00) per month for sixty (60) months beginning on May 1, 2004.

7. The checks provided for in paragraph 6 of this decree shall be made payable to Christine Romero and her attorneys Kennedy & Oliver, P.C., and shall be mailed directly via first class mail to Ms. Romero c/o Kennedy & Oliver, P.C., 1000 Second Street N.W., Albuquerque, New Mexico 87102.

8. Defendants' obligation for the periodic payments set forth in paragraph 6(B) shall be secured by a mortgage lien on real property to be identified by the Defendants. The mortgage will be in a usual and customary form for such purposes. It will provide that the amount of the mortgage lien shall be reduced as the Defendants make the periodic payments. Once the final payment is made, the mortgage shall be deemed released, and Romero will execute all appropriate documents necessary to release the mortgage or any cloud on title to the real property deriving from the mortgage. Defendants shall identify the property via a letter from counsel to Kennedy & Oliver within ten (10) days of the entry of this decree.

9. The Defendants shall institute and carry out policies aimed at fostering a work environment free from sex discrimination, including sexual harassment of its employees, and that allow employees to raise concerns or complaints without retaliation about matters made unlawful by Title VII, whether alleged, perceived or actual. Defendants shall distribute copies of their sexual harassment policies to each of their current full and part-time employees, and to each new employee hired for the duration of this decree.

10. The Defendants shall provide training on sex discrimination and harassment according to the following terms:

A. The Defendants shall retain and pay for a consultant/lecturer who shall

provide consultation and training for one seminar-training session each year this decree is in effect for a total of two (2) years. All corporate officers, directors, managers, supervisors and employees of the Defendants shall attend the first seminar-training session. For the second year session, those employees who work more than fifty (50) miles from the site of the training session may, in lieu of attendance in person, view a videotape in the same fashion as new employees as set forth in Paragraph F. Duplicative sessions may be held to accommodate staffing needs. The Defendants shall be responsible for any additional costs to provide such duplicative sessions.

B. The first seminar-training session shall be conducted within three months of the entry of this decree.

C. The consultant/lecturer shall be a person(s) acceptable to the Commission. The Defendants shall submit the name(s), address(es), telephone number(s) and resume(s) of the proposed consultant/lecturer(s) together with the dates of the proposed seminar-training sessions and the details of the contents of the training to the Regional Attorney of the Albuquerque District Office of the Equal Employment Opportunity Commission within thirty (30) days of the entry of this decree. The Commission shall have thirty (30) days from the date of receipt of the information described above to accept or reject the proposed consultant/lecturer and/or the contents of the training. In the event the Commission does not approve the designated consultant/lecturer, the Commission shall designate the consultant/lecturer which shall be paid by the Defendants at a cost not to exceed \$1,500 per seminar-training session.

D. The seminar-training sessions shall be no less than two hours of instruction. All personnel designated in paragraph A shall both register for and attend

the seminar-training sessions. The registry of attendance shall be retained by the Defendants for the duration of the decree.

E. The training shall include the subject of what constitutes sex discrimination, including sexual harassment, harassment based on gender and retaliation; that sex discrimination in the hiring, firing, compensation, assignment or other terms, conditions or privileges of employment and retaliation violates Title VII; how to prevent sex discrimination and retaliation, how to provide a work environment free from sex discrimination, sexual harassment and retaliation, and to whom and by what means employees may complain if they feel they have been subject to sex discrimination, sexual harassment and retaliation in the workplace.

F. New employees shall attend any seminar-training sessions required by this decree; employees hired after the seminar-training sessions are presented shall, within ten (10) days of their hire, view a video tape of the training and/or a professional training tape which covers the topics set forth in paragraph E and shall be given any written material disseminated at the seminar-training sessions for the duration of this decree.

G. During the first six (6) months of this agreement, all individuals designated by the Defendants to receive, investigate or take any action in response to complaints of sexual harassment and retaliation, shall attend Commission-approved training on the processing of sexual harassment complaints, including, but not limited to, proper investigation of complaints. Information concerning the proposed training under this paragraph shall be submitted to the Regional Attorney, 505 Marquette, NW, Suite 900, Albuquerque, New Mexico, within thirty (30) days of the entry of this Consent Decree. The information will include the name, address and qualifications and

experience of the proposed trainer, an outline of the proposed training and the dates, times and location of the proposed training. Defendants shall be responsible for paying for such training sessions at a cost not to exceed \$1,500.00.

11. The Commission, at its discretion, may designate Commission representatives to attend and participate in the seminar-training sessions described above, and the representative shall have the right to attend and fully participate in the sessions. The Commission will provide 5-day notice to Defendants' counsel of its intent to participate or attend the seminar-training session described above.

12. Each Defendant shall post within 30 days of the entry of this Consent Decree for the duration of this decree in a prominent place frequented by its employees, a copy of the Notice applicable to each Defendant attached to this decree as Exhibit A. This Notice shall be the same type, style and size as in Exhibit A.

13. The Defendants shall report in writing to the Regional Attorney of the Commission's Albuquerque Area Office at 505 Marquette, NW, Suite 900, Albuquerque, New Mexico 87102, beginning six (6) months from the date of the entry of this decree and thereafter every six (6) months for the duration of the decree the following information:

A. Any changes, modifications, revocations or revisions to its policies and procedures that concern or affect the subject of sex discrimination.

B. Any changes, modifications, revocations or revisions to its policies and procedures that concern or affect the subject of retaliation.

C. The registries of persons attending each of the seminar-training sessions required in paragraph 10 of this decree and a list of current employees on the day of the seminar-training session, along with a statement that the training sessions described in

paragraph 7 of this decree were completed.

14. This decree shall expire by its own terms at the end of two (2) years after entry, without further action by the parties.

15. The parties agree to entry of this decree, subject to final approval by the Court.

16. The Defendant shall expunge from the personnel files of Christine Romero all references to the charge of the discrimination filed against the Defendant. In response to any employment inquiries or reference check concerning Christine Romero, the Defendants will only provide the dates of Ms. Romero's employment, position held, job duties and salary.

17. Upon entry of this Consent Decree, this case, as it relates to the claims by Plaintiff and Plaintiff in Intervention, shall be dismissed with prejudice, with the Court retaining jurisdiction for the purposes of enforcement of the terms of this Consent Decree. Each party will bear its own attorney's fees and costs.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED as follows:

1. The settlement, including the terms of this Consent Decree, is hereby approved.
2. Each party shall bear its own attorney's fees and costs.
3. All claims asserted by the Plaintiff EEOC and Plaintiff-in-Intervention Christine Romero against the Defendants are hereby dismissed with prejudice, with the Court retaining jurisdiction for the purposes of enforcement of this Consent Decree during its two (2) year term.


HON. WILLIAM P. JOHNSON
United States District Judge

APPROVED AND CONSENTED TO:



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Socorro, NM 87801

NOTICE TO ALL EMPLOYEES
OF AX - PROPANE, INC.

It is unlawful under federal law (Title VII of the Civil Rights Act) and state law (New Mexico Human Rights Act) to discriminate against an employee on the basis of sex in hiring, firing, compensation or other terms, and conditions or privileges of employment, including sexual harassment.

It is also unlawful under federal law (Title VII of the Civil Rights Act) and state law (New Mexico Human Rights Act) to retaliate against an employee or former employee for (1) opposing discriminatory practices made unlawful by federal law; (2) filing a charge or assisting or participating in the filing of a charge of discrimination; or (3) assisting or participating in an investigation or proceeding brought under Title VII.

A-X Propane Inc. Incorporated will not discriminate on the basis of sex and will not retaliate against any employee who opposes a practice made unlawful under federal law, files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII, or who files a grievance alleging discrimination.

If you believe you have been discriminated against or retaliated against, you have the right to seek assistance from and file a charge of discrimination with the:

- 1) **U.S. Equal Employment Opportunity Commission (EEOC),**
505 Marquette, Suite 900, Albuquerque, New Mexico 87102.
(505) 248-5201 or 1-800-669-4000; or
- (2) **The New Mexico Department of Labor, Human Rights Division (NMHRD),** 1596 Pacheco St., Suite 103, Santa Fe, New Mexico 87505, (505) 827-6838.

EXHIBIT A

NOTICE TO ALL EMPLOYEES
OF BELL GAS, INC.

It is unlawful under federal law (Title VII of the Civil Rights Act) and state law (New Mexico Human Rights Act) to discriminate against an employee on the basis of sex in hiring, firing, compensation or other terms, and conditions or privileges of employment, including sexual harassment.

It is also unlawful under federal law (Title VII of the Civil Rights Act) and state law (New Mexico Human Rights Act) to retaliate against an employee or former employee for (1) opposing discriminatory practices made unlawful by federal law; (2) filing a charge or assisting or participating in the filing of a charge of discrimination; or (3) assisting or participating in an investigation or proceeding brought under Title VII.

Bell Gas Incorporated will not discriminate on the basis of sex and will not retaliate against any employee who opposes a practice made unlawful under federal law, files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII, or who files a grievance alleging discrimination.

If you believe you have been discriminated against or retaliated against, you have the right to seek assistance from and file a charge of discrimination with the:

- 1) **U.S. Equal Employment Opportunity Commission (EEOC),** 505 Marquette, Suite 900, Albuquerque, New Mexico 87102. (505) 248-5201 or 1-800-669-4000; or
- (2) **The New Mexico Department of Labor, Human Rights Division (NMHRD),** 1596 Pacheco St., Suite 103, Santa Fe, New Mexico 87505, (505) 827-6838.

EXHIBIT A

NOTICE TO ALL EMPLOYEES
OF CORTEZ GAS COMPANY

It is unlawful under federal law (Title VII of the Civil Rights Act) and state law (New Mexico Human Rights Act) to discriminate against an employee on the basis of sex in hiring, firing, compensation or other terms, and conditions or privileges of employment, including sexual harassment.

It is also unlawful under federal law (Title VII of the Civil Rights Act) and state law (New Mexico Human Rights Act) to retaliate against an employee or former employee for (1) opposing discriminatory practices made unlawful by federal law; (2) filing a charge or assisting or participating in the filing of a charge of discrimination; or (3) assisting or participating in an investigation or proceeding brought under Title VII.

Cortez Gas Company Incorporated will not discriminate on the basis of sex and will not retaliate against any employee who opposes a practice made unlawful under federal law, files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII, or who files a grievance alleging discrimination.

If you believe you have been discriminated against or retaliated against, you have the right to seek assistance from and file a charge of discrimination with the:

- 1) **U.S. Equal Employment Opportunity Commission (EEOC),** 505 Marquette, Suite 900, Albuquerque, New Mexico 87102, (505) 248-5201 or 1-800-669-4000; or
- 2) **The New Mexico Department of Labor, Human Rights Division (NMHRD),** 1596 Pacheco St., Suite 103, Santa Fe, New Mexico 87505, (505) 827-6838.

EXHIBIT A