

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
EQUAL EMPLOYMENT OPPORTUNITY :
COMMISSION, :

Plaintiff, :

and :

MARGARET SCHNOOP, ELIZABETH :
FLORES and ERIN BLAIR, :

Intervening :
Plaintiffs :

v. :

ROTARY CORPORATION, KEITH BARRY, :
and ALAN MAKARWICH, :
Defendants. :

Civil Action No. :
00-cv-1478 DNH-RFT :
CONSENT DECREE :

U. S. DISTRICT COURT
N. D. OF N. Y.
FILED

AUG 25 2004

AT _____ O'CLOCK _____ M
LAWRENCE K. BAERMAN, Clerk
UTICA

-----X-
CONSENT DECREE

This action was initiated on September 26, 2000 by the Equal Employment Opportunity Commission (hereinafter "EEOC"), an agency of the United States Government, alleging that Rotary Corporation (hereinafter "Rotary") violated Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, by subjecting Margaret Schnoop, Elizabeth Flores and Erin Blair to a hostile work environment because of their sex, female, and making the conditions of employment so intolerable that Margaret Schnoop, Elizabeth Flores and Erin Blair were forced to resign.

The parties agree that it is in their mutual interest to

fully resolve the matter without further litigation.

The EEOC and Rotary do hereby stipulate and consent to the entry of this Consent Decree ("Decree") as final and binding among the parties signatory hereto and their successors and assigns. This Decree resolves all matters raised in the EEOC's Complaint filed herein.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, it is DECREED, ADJUDGED, AND ORDERED AS FOLLOWS:

1. This Decree resolves all of the issues raised by EEOC Charge Numbers 165-99-0223, 165-99-0263, 165-99-0229 and the EEOC Complaint in this case, but does not constitute any findings of fact or conclusions of law. This Decree in no way affects the EEOC's right to process any other pending or future charges that may be filed against Rotary in accordance with standard EEOC procedures, and to commence civil actions on any such charges.
2. The parties agree that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative prerequisites have been met.
3. No party shall contest the jurisdiction of the Federal District Court to enforce this Decree and its terms nor the right of any party to bring an enforcement suit upon breach

of any of the terms of this Decree by any party. Breach of any material term of this Decree should be deemed to be a substantive breach of this Decree. Nothing in this Decree shall be construed to preclude the EEOC from bringing proceedings to enforce this Decree in the event that Rotary fails to perform any of the promises and representations contained herein. No party shall contest the validity of this Consent Decree nor the jurisdiction of the Federal District Court to enforce this Consent Decree and its terms or the right of any party to bring an enforcement action upon breach of any term of this decree by any party.

4. Maintenance of a Human Resources Office

a. Rotary will maintain a Human Resources Office at its corporate headquarters that will promulgate or maintain its anti-discrimination ¹ policy and procedures; train employees and managers on defendant's anti-discrimination policy, investigate complaints about discriminating conduct at all its locations using the format discussed below in ¶6 and recommend and execute disciplinary action if discrimination is found to have occurred².

b. A Human Resources Officer will be made available to

¹"Anti-discrimination" refers to all forms of discrimination, retaliation and harassment, including both racial and sexual harassment and discrimination under federal and state law.

² This office has already been established as of the date of the entry of this Decree

visit defendant's locations, at least once a year, to insure that all EEO posters are displayed and that all employees are aware of and understand defendant's policies and procedures. The Officer will insure this by talking with the employees and managers personally and keeping a record of each visit. The Officer will follow up with training if it is found that employees and/or managers are unaware of defendant's policies.

5. Training

- a. Beginning from the date of entry of this Decree, Rotary will provide annually, one (1) hour of anti-discrimination and anti-retaliation training for all employees at all its locations and corporate offices. Rotary will also provide one (1) additional hour of training for management personnel. The training sessions for employees and/or managers are ongoing as of the date of this Decree;
- b. Attendance sheets or records containing the dates of attendance, name of attendees, identity of instructor, and agendas for the training provided in ¶5.a. shall be maintained at the location where the employee's personnel file is kept. These attendance sheets will also clearly note that a copy will be sent to EEOC. These attendance sheets will be sent to EEOC 33

Whitehall St. 5th Fl. NY, NY 10004 attn: Louis

Graziano. This report covering all training for the period from July 1 to June 30 will be submitted by the following July 15th in every year of this Decree;

- c. Rotary has already submitted to EEOC all training materials to be initially relied upon or presented at the above-referenced training sessions. Rotary will provide to EEOC any changes in training prior to implementing them;
 - d. All newly hired employees and managers must be contacted, by telephone or other reasonable means, within 30 days of hire where the company's anti-harassment policy, Human Resources telephone number and complaint procedure is discussed. Newly hired or promoted managers must undergo indicated training within sixty (60) days of the new promotion or hire.
6. Policies and Procedures
- a. The Human Resources Officer will also make visits to the location each time its office receives a complaint, if any, about sexual harassment;
 - b. Rotary will provide its employees with the phone number for the Human Resources Officer, which all its employees may call if they believe they are being discriminated against at work. This number will be

posted by or near the EEOC posters in an area readily accessible and visible to employees, and shall state that calls made to this number will be kept confidential. The Human Resources Officer number will be written as an attachment to defendant's Employee Handbook that is given to new hires;

- c. Rotary has adopted and agrees to maintain a corporate-wide policy, as well as a set of procedures regarding discrimination and retaliation. Within 60 days of the entry of this Decree, Rotary will create a formal complaint form to report all incidents of sexual harassment and retaliation. The form shall include the identity of the alleged harasser or other wrongdoer; when and where the alleged harassment or retaliation occurred; identity of witnesses; and a description of the alleged acts of harassment or retaliation;
- d. Rotary's anti-harassment policy and/or procedures will include:
 - i. Guidelines requiring thorough investigations of complaints of sexual harassment and retaliation including that the accuser, accused and all named witnesses shall be interviewed regarding the facts alleged in the complaint; that a finding regarding the validity of a complaint of sexual harassment

and retaliation shall be made on the facts obtained and the appropriate remedy and/or disciplinary action, if any, in the judgment of the Human Resources Office to be taken, up to and including, in appropriate circumstances, termination of the accused.

- ii. Procedures for recording actions taken during or as a result of an investigation of a sexual harassment and/or retaliation complaint, including a directive that all interview notes are to be written up and/or typed and reviewed and signed by the person(s) interviewed where practicable. Said notes in either written or typed form shall be kept with the Human Resources Office at Headquarters. These procedures should require the maintenance of a log of all action taken, including the identity of the interviewer(s), complainant(s), other person(s) interviewed, and the actions(s) taken, if any, by the Human Resources Officer as a result of the complaint and investigation; and relevant dates.
- iii. A report shall be made from the information gathered from interviews and kept in the appropriate files with the Human Resources Officer

at Rotary's corporate offices.

- iv. A copy of Rotary's anti-harassment policy has been distributed to all employees and will be distributed to any new employees within 15 days of the new employee's hire.

7. Postings

- a. Rotary shall, within 30 days after entry of the Decree, and continuing for two (2) years, conspicuously post and maintain at its Guilderland location where employee notices are posted, a copy of the Notice of Lawsuit and Settlement, in the form and with the content specified in Exhibit A hereto.
- b. Rotary shall display the EEOC poster, as required by law, outlining all applicable EEO laws at all locations.

8. Non-discrimination and Monitoring

- a. Rotary agrees not to tolerate any form of discrimination or to retaliate against any employee, in violation of Title VII. Rotary further agrees not to discriminate or retaliate against any individual who complains or otherwise provides assistance or evidence, testifies or asserts her or his rights under Title VII.
- b. Rotary agrees to provide the EEOC with a list of all

complaints of sexual harassment or retaliation, including a summary of the steps taken during the investigation, the results of the investigation, and any disciplinary action taken. This summary will be sent to EEOC 33 Whitehall St. 5th Fl. NY NY 10004 attn: Louis Graziano. This summary covering all complaints for the period from July 1 to June 30 will be submitted by the following July 15th in every year of this Decree;

9. Monetary Relief and Related Provisions

a. Rotary's Payment to Schnoop

Rotary, subject to execution and approval and the provisions of a separate settlement agreement and consent decree, will pay to Margaret DeSantis (hereinafter referred to as "Schnoop") a single lump sum payment of Seventy-five Thousand Dollars (\$75,000.00) in full and final settlement of all claims for damages with respect to her asserted against Rotary in these proceedings. This payment, in its entirety, will be allocated to her claims for damages for emotional distress.

b. Barry's Payments to Schnoop

Keith Barry (hereinafter "Barry"), also per the separate settlement agreement and consent decree, will deliver to Schnoop a fully executed and guaranteed

promissory note, guaranteed by Barry's son, Derek Barry. Barry will pay Schnoop an aggregate amount of \$20,000 as part of the separate settlement agreement and consent decree, allocated entirely to Schnoop's claims for damages for emotional distress.

c. Rotary's Payments to Flores

Rotary, also subject to the execution and approval and the provisions of the separate settlement agreement and consent decree, will to pay to Elizabeth Flores (hereinafter "Flores") a single lump sum payment of Fifty Thousand Dollars (\$50,000.00) in full and final settlement of all claims for damages asserted on her behalf against Rotary in these proceedings. This amount shall be allocated entirely to her claims for damages for emotional distress.

d. Makarwich's Payments to Flores

Makarwich, per the separate settlement agreement and consent decree, will also to deliver to Flores a lump sum settlement in the amount of Five Thousand (\$5,000.00) Dollars in full and final settlement of her claims asserted in these proceedings against him. This payment is also, in its entirety, allocated to Flores' claims for damages for emotional distress.

e. Rotary's Payments on behalf of Blair

Erin Blair (hereinafter "Blair"), per the separate settlement agreement and consent decree, acknowledges that she is in Chapter 7 bankruptcy proceedings in the U.S. Bankruptcy Court, District of New Jersey (Newark), Bankruptcy Petition #: 99-34090-RG. Rotary, subject to execution and approval and the provisions of the separate settlement agreement and consent decree, will pay to Steven P. Kartzman, Trustee for the Bankruptcy Estate of Erin Blair a single lump sum payment of Thirty-five Thousand Dollars (\$35,000.00) in full and final payment of all claims for damages asserted on her behalf in these proceedings. This sum, in its entirety, will be allocated to Blair's claims for damages for emotional distress.

f. Representations and Warranties

Neither EEOC nor Rotary has made any representation or warranty to the party to this Agreement to induce the signing of this Agreement other than those expressly stated herein.

g. Governing Law

This Consent Decree shall be governed by and construed according to applicable federal laws.

h. Amendment

This Consent Decree may not be amended except by a writing signed by the party to be charged with agreeing to the amendment and by approval of the Court.

i. Binding Effect

This Consent Decree shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assigns, whether by stock or asset sale, spinoff, merger or consolidation, operation of law, or otherwise.

j. No Admissions

This Consent Decree will not be construed as an admission or evidence that any party hereto has failed in any way to act appropriately or to comply with any applicable law. It is specifically understood that the parties have entered into this Consent Decree in order to expedite the resolution of this litigation and to avoid the further costs and risks associated with further litigation. In particular, Rotary denies that it has violated any law, and it is understood that by entering into this Consent Decree Rotary does not in any way admit to having violated any federal or state law.

k. Attorneys' Fees, Costs and Expenses

The parties shall bear their own attorneys fees, costs, and expenses in this lawsuit. No party and none of their attorneys shall file a petition for award of such fees, costs or expenses, and by signing this Consent Decree the parties and their attorneys expressly relinquish any and all rights to seek or obtain attorneys' fees from any other party to this Consent Decree or their counsel.

l. Destruction of Produced Documentation

In accordance with the Stipulation and Order Governing the Production and Use of Confidential Material entered into in these proceedings, each party hereto agrees to destroy, within thirty (30) days after the entry of this Consent Decree, all documents marked or designated "Confidential" and produced to that party by another party to these proceedings. Certification of this destruction shall be provided by written letter of that party's counsel to the counsel representing the party which provided the documents.

10. If the EEOC determines that Rotary has not complied with any of the requirements in paragraphs 5, 6 (excluding subpart d), 7 or 8 (excluding subpart a) of this Decree, it shall give Rotary thirty (30) days from the receipt of written

notice to cure any noncompliance. EEOC will specify the nature of the noncompliance. If the parties are unable to resolve the dispute, EEOC may seek to enforce the Decree by application to the Court. The Court shall retain jurisdiction over any such proceeding arising from an act, or failure to act, occurring during the duration of this Consent Decree.

11. This Consent Decree constitutes the complete understanding among the EEOC and Rotary. No other promises or agreement shall be binding between the EEOC and Rotary unless agreed to in writing and signed by these parties and approved by the Court.
12. The court retains jurisdiction to enforce the terms of this Decree.
13. This Consent Decree will remain in effect for three (3) years from the date of entry with regard to Rotary's obligations to the EEOC specified hereunder, except for final annual reports due on July 15th of the final year of

this decree.

Dated: New York, NY

5/21/04

S/Katherine E. Bissell

KATHERINE E. BISSELL
REGIONAL ATTORNEY
FOR PLAINTIFF EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
33 Whitehall Street, 5th Floor
New York, New York 10004
212-336-3704

Dated: Albany, New York

5/24/04

S/Robert S. Catapno-Friedman

Robert S. Catapano-Friedman
Robert S. Catapano-Friedman, P.C.
COUNSEL FOR DEFENDANT ROTARY
744 Broadway
Albany, New York 12207

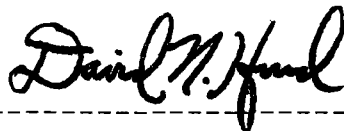
Dated: Albany, New York

5/25/04

S/Saralyn Tootle

Saralyn Tootle, Human Resources
Manager, Rotary Corporation

SO ORDERED



U.S.D.J.

8-24-04

EXHIBIT "A"

NOTICE TO ALL EMPLOYEES
POSTED PURSUANT TO CONSENT DECREE

1. This NOTICE is being posted pursuant to a Consent Decree between Rotary Corporation and the Equal Employment Opportunity Commission (hereinafter the "EEOC") in the case EEOC v. Rotary Corporation, Civil Action 00-CV-1478 (NDNY).
2. Federal law, Title VII of the Civil Rights Act of 1964, as amended, requires that there be no discrimination against any employee because of that person's sex, race, color, religion or national origin with respect to hiring, compensation, promotion, discharge or other terms, conditions or privileges of employment.
3. Rotary agrees that all employment practices and all terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, as amended.
4. Rotary agrees that there shall be no discrimination or retaliation of any kind against any person because of opposition to any practice declared unlawful under Title VII of the Civil Rights Act of 1964, as amended, or because of the filing of a charge, giving of testimony or assistance or participating in any manner in an investigation, proceeding or hearing under Title VII.
5. Employees also have a right to report violation to:
U.S.E.E.O.C.
33 Whitehall Street
New York, New York 10004
212-336-3620
6. This notice shall remain posted for the duration of the Consent Decree, and shall not be altered or removed until that time.

Signed this 1st Day of July, 2004

Saralyn Tootle
Human Resources Manager