

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

DEC 06 2001

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY [Signature] DEPUTY

(1) EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

(2) JEFFREY BELL,

Intervenor Plaintiff,

v.

Case No. CIV-01-791-T

(1) CREST DISCOUNT FOODS, INC., and

(2) NICKOLAS HARROZ, an
individual and as agent for
CREST DISCOUNT FOODS, INC.,

Defendant.

DOCKETED

CONSENT DECREE

THIS CONSENT DECREE is made and entered into by and between the Equal Employment Opportunity Commission ("EEOC"), and Crest Discount Foods, Inc. in the United States District Court for the Western District of Oklahoma, with regard to the EEOC's Complaint filed on May 23, 2001 (Complaint), in Civil Action No. CIV-01-0791-T. The Complaint is based upon a Charge of Discrimination filed by Jeffrey Bell, Charging Party, against the Defendant employer.

The above-referenced Complaint alleges that the Defendant Crest Discount Foods, Inc., violated Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, by the failure to hire Jeffrey Bell because of his race, Black. Mr. Bell intervened as a party plaintiff and filed his Complaint on July 31, 2001. The Defendant employer denies all of the allegations made in the complaints filed by EEOC and Mr. Bell.

The EEOC, Mr. Bell and the Defendant, Crest Discount Foods, Inc., agree to compromise

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and settle the differences embodied in their respective Complaints and intend that the terms and conditions of the compromise and settlement be set forth in this Consent Decree (“Consent Decree”).

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree resolves all issues raised in EEOC Charge No. 311990108. This Decree further resolves all issues in the Complaint filed by the EEOC and Plaintiff Intervenor in this civil action. The EEOC and Plaintiff Intervenor waive further claims and/or litigation on all issues raised in the above-referenced Charge and Complaint. The EEOC does not waive processing or litigating charges other than the above-referenced Charge.

2. The parties agree that this Consent Decree does not constitute an admission by the Defendant of any liability or wrongdoing. The Defendant expressly denies any violation of local, state or federal law, common or statutory, including but not limited to, Title VII of the Civil Rights Act of 1964, as amended or Title I of the Civil Rights Act of 1991.

3. Defendant, Crest Discount Foods, Inc., agrees that it shall conduct all employment practices in a manner that does not discriminate on the basis of race in violation of Title VII of the Civil Rights Act of 1964, as amended and Title I of the Civil Rights Act of 1991.

4. Defendant, Crest Discount Foods, Inc., agrees to distribute the Notice appended hereto as Attachment “A” to each employee. A copy of Attachment “A” will be enclosed in an envelope containing each employee’s paycheck. Also enclosed in each envelope will be a notice stating the following: “This is a copy of Crest Discount Foods, Inc.’s anti-discrimination policy. Crest Discount Foods, Inc., reiterates its commitment to providing a workplace free of discrimination

of any kind. Please read the policy and keep a copy for your records.” This distribution must be accomplished within six months after the Consent Decree is entered. New employees will be given a copy of the notice, Attachment “A,” within thirty days of their hire. This procedure will remain in effect during the two-year pendency of this Consent Decree. The notice, Attachment “ A,” shall be and will remain posted on an employee bulletin board during the two-year pendency of this Consent Decree.

5. Defendant, Crest Discount Foods, Inc., shall implement Equal Employment Opportunity training regarding policies and procedures related to racial discrimination in the workplace. Within six months after the Consent Decree is entered, Crest Discount Foods, Inc., agrees to conduct Racial Discrimination Training for all the employees of Crest Discount Foods, Inc., The training will advise employees of the requirements and prohibitions of Title VII of the Civil Rights Act of 1964. The training will inform the employees of the complaint procedure for individuals who believe they have experienced racial discrimination. The training will advise employees, including supervisors and managers, of the consequences of violating Title VII. The training will also include a specific discussion or instruction relating to the issue of racial discrimination. The training shall be at least one hour in duration. Within ten (10) days after the training is conducted, Defendant Crest Discount Foods, Inc., agrees to give written notice to the EEOC as to the date and location of the training, the name of the person providing the training and the substance of the training. Training shall be conducted each year during the term of this two (2) year agreement.

6. Defendant, Crest Discount Foods, Inc., agrees to permit an EEOC Federal Investigator to conduct on-site visits at all Defendant’s stores, one visit to each store per quarter, during the term of this Consent Decree, for the purpose of reviewing all job applications received by Defendant

during that quarter. The parties agree that the EEOC Federal Investigator shall provide 48 hours written notice of the on-site visit to the Store Manager or company representative. The inspection shall be conducted Monday through Friday during working hours. The Defendant agrees to make a company representative available to answer any questions relating to the production of these documents or the applications. If the company representative provided is unable to respond completely to EEOC's questions, the parties agree that the EEOC Investigator may interview any other company representatives. In the event of non-compliance with this provision, EEOC reserves the right to seek enforcement measures in federal court. Nothing contained within this Consent Decree shall be interpreted by Defendant as lessening its obligation to comply with any and all applicable federal reporting requirements to this or any other federal agency. Further, Defendant agrees to provide each applicant for employment with an EEO survey, attached hereto as Attachment "B", and upon completion of the survey by the applicant Defendant will collect and maintain the surveys and then submit them to the EEOC each quarter. Should an applicant for employment refuse to complete the survey, the Defendant shall make a notation to that effect on the survey form.

7. Defendant, Crest Discount Foods, Inc., agrees to provide the EEOC with a quarterly analysis showing the race/ethnicity of all persons hired during the quarter, the position for which each person was hired and the store location for which each person was hired.

8. Defendant, Crest Discount Foods, Inc., 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 or because of the filing of a charge; giving testimony or assistance or participating in any manner in any investigation, proceeding or hearing under Title VII.

9. Defendant, Crest Discount Foods, Inc., agrees to pay Mr. Bell the amount of

fifty thousand and no/100 dollars (\$50,000.00) to resolve all claims for damages brought by the EEOC and Plaintiff Intervenor.

10. The payment referenced in paragraph 9, above, shall be made by December 5, 2001, by check made payable to Jeffrey Bell and Jim Priest as agreed by EEOC and the Defendant.

11. Defendant, Crest Discount Foods, Inc., agrees to report to the EEOC within ninety (90) days of entry of this Consent Decree regarding its compliance with the agreements set forth in paragraphs 4 through 9, above.

12. The deadlines for compliance with the injunctive relief set forth in paragraphs 4 through 7 above shall run concurrently with the deadlines set forth in the Consent Decree filed on October 23, 2001 in *EEOC & Florie v. Crest Discount Foods, Inc.*, CIV-01-143-A, United States District Court for the Western District of Oklahoma. For purposes of defining "quarter" as used in paragraphs 6 and 7, the parties agree "quarter" will be defined as is customarily used, i.e. fiscal year beginning October 1 and ending September 30, with the end of each quarter being 12/31, 3/31, 6/30 and 9/30.

13. All reports to the EEOC required by this Decree shall be sent to Michelle M. Robertson, Trial Attorney, U.S. EEOC, 210 Park Avenue, Suite 1350, Oklahoma City, OK, 73102.

14. If Defendant, Crest Discount Foods, Inc., fails to tender payment or otherwise fails to timely comply with the terms of paragraphs 9-10, above, Defendant Crest Discount Foods, Inc., shall:

- a. Pay interest at the rate calculated pursuant to 26 U.S.C. Section 6621(b) on any untimely or unpaid amounts; and
- b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Defendant.

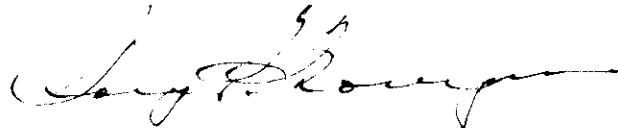
15. Neither the EEOC, Jeffrey Bell nor Defendant Crest Discount Foods, Inc., shall contest the validity of this Consent Decree nor the jurisdiction of the federal district court to enforce this Consent Decree and its terms or the right of either party to the Consent Decree to bring an enforcement action upon breach of any term of this Consent Decree by either such party. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that Defendant Crest Discount Foods, Inc., fails to perform the promises and representations contained herein. The EEOC shall determine whether Defendant Crest Discount Foods, Inc., has complied with the terms of this Consent Decree and shall be authorized to seek compliance with the Consent Decree through civil action in the United States District Court. The EEOC also reserves the right to seek contempt sanctions for non-payment and non-compliance with this Court Order.

16. The EEOC and Plaintiff Intervenor shall not bring further suit or intervene in any suit against Defendant based upon the above-referenced discrimination charge, any of the allegations contained therein, the EEOC's investigation of the charge or the underlying facts.

17. The parties to this Consent Decree agree to bear their own costs and attorney's fees associated with the above-referenced Complaint.

18. The term of this Decree shall be for two (2) years.

SO ORDERED, ADJUDGED AND DECREED this 6 day of
December, 2001.



RALPH G. THOMPSON
U.S. DISTRICT COURT JUDGE

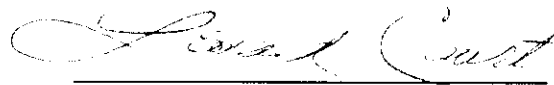
AGREED AS TO FORM AND SUBSTANCE:

Signed this 5th day of December, 2001.

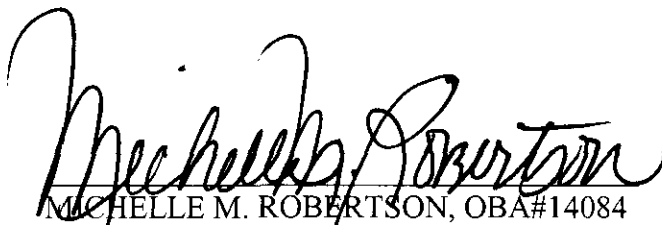
FOR THE PLAINTIFF EEOC:

FOR THE DEFENDANT:

SUZANNE M. ANDERSON
Acting Regional Attorney
Texas Bar No. 14009470



LEONARD COURT, OBA #1948
COURTNEY WARMINGTON, OBA#18486
ADAM CHILDERS, OBA#18673
CROWE & DUNLEVY
1800 Mid America Tower
20 North Broadway
Oklahoma City, Oklahoma 73102
Tel. No. (405) 235-7700
Fax No. (405) 272-6651



MICHELLE M. ROBERTSON, OBA#14084
Trial Attorney
**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**
Oklahoma Area Office
210 Park Avenue, Ste. 1350
Oklahoma City, Oklahoma 73102
Tel No. (405) 231-4363
Fax No. (405) 231-4340

FOR PLAINTIFF INTERVENOR:



Jim Priest, OBA #7310
Lora Montross, OBA#17998
MCKINNEY & STRINGER
101 N. Robinson, Suite 1300
Oklahoma City, OK 73102
Tel. No. (405) 239-6444
Fax No. (405) 239-7902

ATTACHMENT “A”



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Oklahoma Area Office

210 Park Avenue, Suite 1350
Oklahoma City, OK 73102
(405) 231-4911
TTY (405) 231-5745
FAX (405) 213-4140

NOTICE TO ALL EMPLOYEES

This NOTICE is being posted pursuant to a Conciliation Agreement between CREST DISCOUNT FOODS, INC., and the U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC). This NOTICE will be conspicuously posted for a period of two (2) years at this facility and in all places where employment notices are posted. It must not be altered, defaced, or covered by any other material.

POLICY: Discrimination of any kind can and often will detract from employees' job performance, discourage employees from remaining on the job, keep employees from advancing in their careers and lowers overall employee morale and productivity. It is the policy of Crest Discount Foods, Inc. that racial discrimination and harassment are unacceptable conduct and will not be condoned.

PURPOSE: It is the purpose of this policy to reaffirm and amplify the position of Title VII of the Civil Rights Act of 1964, as amended, and the Equal Employment Opportunity Commission's guidelines on racial discrimination and to reiterate Crest Discount Foods, Inc.'s policy on discrimination.

SCOPE: This policy extends to all employees of Crest Discount Foods, Inc., both management, non-management, and temporary/probationary.

DEFINITION: Racial discrimination occurs when an employment decision is made based on a person's race rather than on legitimate factors. Race discrimination can also occur based on an employee's association with a person of a protected class.

RESPONSIBILITY: Each level of management is responsible for ensuring that all personnel policies, procedure, and activities are in full compliance with applicable federal, state, and local equal employment laws, statutes, rules, and regulations regarding racial discrimination and harassment. Employees are expected to read, understand, and follow Crest Discount Foods, Inc.'s policies against racial discrimination.

REPORTING PROCEDURES: Any employee who believes that he or she has been subjected to racial discrimination is expected to report the alleged act as soon as possible to either that person's immediate supervisor, any supervisor or manager with Crest Discount Foods, Inc. or to the Human Resources Department. The Human Resources Department may be contacted at Crest Store #2, 249 N. Douglas, Midwest City, Oklahoma or by telephone at (405) 733-2330, Ext. 130. Supervisors and managers who are informed of an alleged incident of racial discrimination must immediately notify the Human Resources Department.

A person either alternatively, or in addition to reporting such an allegation to company officials, may contact the U.S. Equal Employment Opportunity Commission for the purposes of filing a charge of employment discrimination. The address and telephone number of the U.S. EEOC office is 210 Park Avenue, Suite 1350, Oklahoma City, OK 73102; (405) 231-4911. Information about your rights and how to file a charge is available on the Internet at www.eeoc.gov.

INVESTIGATION OF COMPLAINTS: A complete investigation of each complaint will be undertaken immediately by the Human Resources Department. The investigation may include interview of all employees and supervisors at the facility, the inspection of documents, including personnel records, and full inspection of the premises.

PUNISHMENT FOR VIOLATION: Employees engaged in racial discrimination can expect serious disciplinary action. After appropriate investigation, any employee, whether management or non-management, who has been found to have discriminated against another employee will be subject to appropriate sanctions, depending on the circumstances, from a written warning in his or her personnel file up to and including termination of employment.

RETALIATION: There shall be no retaliation against any employee because that person has opposed what they believe to be unlawful employment practices; or has filed a charge of discrimination, or has given testimony, assistance, or has participated in any manner in any investigation, proceeding or hearing under Title VII of the Civil Rights Act of 1964. Crest Discount Foods, Inc. will not punish you for reporting racial discrimination simply because you have made a complaint under the above guidelines.

PROTECTION OF PRIVACY: The question of whether a particular action or incident constitutes racial discrimination requires a determination based on all available facts. Crest Discount Foods, Inc. will therefore make a concerted effort to protect the privacy of all personnel. Confidential information will be shared on a need-to-know basis to complete the investigation and to deal appropriately with the situation.

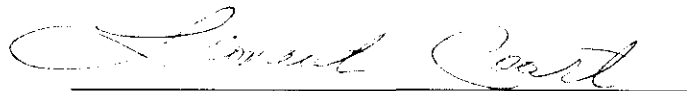
EXCEPTIONS: There are no exceptions to this policy.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE REMOVED OR DEFACED BY ANYONE. THIS NOTICE WILL BE POSTED FOR A PERIOD OF TWO YEARS.

Signed this 5th day of December, 2001.

11-17-01

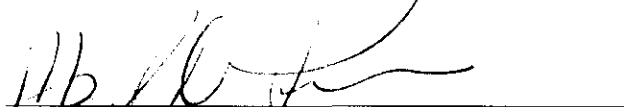
Date



Crest Discount Foods

12-05-01

Date



Joyce Davis Powers

Area Director

Equal Employment Opportunity Commission

ATTACHMENT "B"



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Oklahoma Area Office**

210 Park Avenue, Suite 1350
Oklahoma City, OK 73102
(405) 231-4911
TTY (405) 231-5745
FAX (405) 213-4140

EQUAL EMPLOYMENT SURVEY

NOTICE TO APPLICANT FOR EMPLOYMENT:

You are being requested to provide information about yourself for purposes of an equal employment survey. The information you provide will be kept confidential. Crest Discount Foods, Inc. has agreed to provide this survey to all persons applying for employment at all facilities it owns and operates. This survey will be kept separate from the general application for employment you fill out for Crest Discount Foods, Inc. This form will be provided to the United States Equal Employment Opportunity Commission each quarter. Your cooperation is appreciated.

DEFINITIONS:

American Indian or Alaskan Native - A person having origins in any of the original peoples of North America and South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American - A person having origins in any of the Black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

Native Hawaiian or Other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Hispanic or Latino (All races) - A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Hispanic or Latino (White race only) - A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, and of the White race.

Hispanic or Latino (all other races) - A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, and of any race other than White.

TODAY'S DATE: _____

YOUR NAME: _____

GENDER: **M** **F**

**WHAT IS YOUR
RACE/ETHNIC
IDENTIFICATION:** _____

**WHAT JOB
ARE YOU APPLYING
FOR WITH CREST
DISCOUNT FOODS:**