

TMG

212

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION, *et al.*,)

Plaintiffs,)

v.)

CONECTIV, *et al.*,)

Defendants.)

C.A. NO. 2:05-cv-03389-TMG

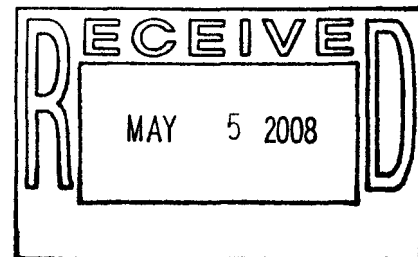
CONSENT DECREE

MAY 5 2008
MICHELE E. CURZ, Clerk
Dep. Clerk

A. This action was brought by the United States Equal Employment Opportunity Commission ("the EEOC" or "the Commission") on July 1, 2005, against, *inter alia*, A.C. Dellovade, Inc., under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991. The EEOC filed this lawsuit on behalf of Roy Grimes, alleging that Defendant A.C. Dellovade, Inc. discriminated against Mr. Grimes based on his race, Black. A.C. Dellovade, Inc. filed an Answer to the Complaint which denied the claims in the lawsuit.

B. In the interest of resolving this matter, and as a result of having engaged in comprehensive settlement negotiations, this Consent Decree is entered into by and shall be final and binding between the EEOC and Defendant, A.C. Dellovade, Inc., its directors, officers, agents, employees, successors or assigns and all persons in active concert or participation with it, (hereinafter collectively referred to as "Defendant" or "A.C. Dellovade, Inc.").

C. The EEOC and A.C. Dellovade, Inc. agree to entry of this Consent Decree, which shall fully and finally resolve all issues and claims arising out of the Complaint filed by the EEOC in Civil Action No. 2:05-CV-3389-TMG.



NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

NON-DISCRIMINATION AND NON-RETALIATION

1. This Court has jurisdiction over the parties and subject matter of this action.

2. A.C. Dellovade, Inc. is enjoined from engaging in discrimination of any employee on the basis of race in violation of Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 and from engaging in any employment practices which retaliate in any manner against any person, because of that person's opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991.

3. A.C. Dellovade, Inc. shall not divulge, directly or indirectly, to any identifiable employer or potential employer of Roy Grimes any of the facts or circumstances related to the claims of discrimination against A.C. Dellovade, Inc. in this case or any of the events relating to his participation in the litigation of this action.

4. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of A.C. Dellovade, Inc. under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 or the EEOC's authority to process or litigate any charge of discrimination now pending or filed in the future against A.C. Dellovade, Inc..

NON-ADMISSION

5. This Decree shall not constitute an adjudication or finding on the merits of this case and shall not be construed as an admission of liability by Defendant nor as a disavowal by the EEOC of the allegations in the Complaint.

DURATION OF THE DECREE

6. The Decree shall be in effect for a period of four (4) years from the date it is entered by the Court.

MONETARY RELIEF

7. Payment: Dellovade agrees to pay monetary relief to Roy Lee Grimes in the total amount of two hundred thousand dollars (\$200,000.00), in full settlement of the claims raised against Dellovade in the EEOC Complaint and in the Grimes Complaint and in the Lawsuit. The monetary relief will be paid in the following manner: within 10 business days after receipt of a Release executed by Roy Grimes and the Court's entry of the Consent Decree, whichever date is later, Defendant Dellovade will pay Roy Grimes a total of two hundred thousand dollars (\$200,000.00).

The check(s) will be mailed to Roy Grimes c/o Joanne Rathgeber, Esq., Hill Wallack, LLP, 111 East Court Street, Doylestown, PA 18901. If there are any changes in address, the EEOC will provide notice by certified mail to counsel for Defendant Dellovade. Defendant Dellovade will mail a copy of each check, within ten (10) business days of mailing it to Roy Grimes to the attention of Terrence R. Cook, Supervisory Trial Attorney, EEOC, 801 Market Street, Suite 1300, Philadelphia, PA 19107. In order to receive this monetary relief, Roy Grimes must execute a release satisfactory in form to Defendant Dellovade and to Roy Lee Grimes.

NOTICE POSTING

8. Within 20 business days after entry of this Decree, Dellovade shall post at its Pittsburgh and metro Philadelphia area facilities, on all bulletin boards used by Dellovade for communicating with employees, same-sized copies of the Notice attached as Exhibit 1 to this Decree. The Notice shall remain posted for four years from the date of entry of this Decree. Dellovade shall provide to the attention of Terrence R. Cook, Supervisory Trial Attorney, EEOC, 801 Market Street, Suite 1300, Philadelphia, PA 19107, a list of the location and date of each posting within 40 days after entry of this Decree. If the posting becomes defaced, removed, marred or otherwise illegible, Dellovade agrees to post a readable copy in the same manner as heretofore specified.

NON-DISCRIMINATION AND ANTI-HARASSMENT POLICIES AND COMPLAINT PROCEDURES

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

(a) state that Dellovade: (i) prohibits discrimination against employees on the basis of race, sex, national origin, religion and color, and prohibits retaliation in violation of Title VII; (ii) prohibits 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) prohibits any act, policy or practice that has the effect of harassing or intimidating any employee on the basis of race, sex, national origin, religion or color in violation of Title VII; and (iv) prohibits 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 race, sex, national origin, religion or color in violation of Title VII;

(b) 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 to whom an employee can make a complaint; (iv) provide a toll free number that will be available for employees to call to make a complaint of discrimination, harassment or retaliation during work hours or to leave a message after work hours; (v) encourage prompt reporting by employees; and (vi) 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, supervisor or foreman who violates Dellovade' policy or policies against discrimination, harassment and retaliation, and for increasingly severe discipline of repeat offenders.

(f) Dellovade shall distribute to all of its employees, its policy or policies against discrimination, harassment and retaliation. This distribution will take place no later than 90 days after the entry of this Consent Decree. Acknowledgment of receipt forms will be made

available. Dellovade will retain copies of any acknowledgment of receipt form for an employee in the employee's personnel file.

10. Within 90 days after entry of this Consent Decree, Dellovade shall advise Terrence R. Cook, Supervisory 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 all employees will receive these policies and have an opportunity to acknowledge receipt.

11. Dellovade shall, once per year for the duration of the Consent Decree, send a copy of its policy or policies against discrimination, harassment and retaliation to each employee.

SUPERINTENDENT/FOREMAN ACCOUNTABILITY

12. Dellovade shall promote superintendent/foreman accountability by the following conduct:

- (a) providing annual anti-discrimination training to all of its supervisory and managerial personnel, including foreman as set forth in Paragraph 12.
- (b) disciplining, up to and including discharge, any supervisor, manager or superintendent who violates Dellovade's policy or policies against discrimination, harassment and retaliation;
- (c) imposing on all managers, supervisory personnel and foreman a duty to administer their work areas to ensure compliance with Dellovade' policy or policies against discrimination, harassment and retaliation; and
- (d) requiring all managers, superintendents or foremen to report any pattern of behavior and/or complaint of harassment and/or retaliation of which they become aware to Dellovade's Corporate Office.

TRAINING

13. Dellovade shall provide training on the requirements of Title VII as follows:

(a) Dellovade agrees to provide annual training sessions for all of its managers, superintendents and foremen 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 presentation or statement by a high-ranking Dellovade official emphasizing its commitment to prevent discrimination and harassment;

(c) In addition to the training described in Paragraph 13 (a) within 90 calendar days of the entry of the Consent Decree, Dellovade shall provide training to all employees on Dellovade's respective policy on racial harassment in the workplace via videotaped training on dvd.

(d) Dellovade shall first provide training in accordance with Paragraph 13 (a) and (c) no later than 60 calendar days after entry of this Consent Decree and also shall provide such training in calendar years 2008, 2009, 2010, 2011, and 2012.

14. Dellovade agrees at its expense to provide the EEOC with copies of all pamphlets, brochures, outlines, dvd's, or other written materials provided to attendees of training sessions.

15. Dellovade shall certify to the EEOC in writing within 10 business days after the management training sessions and those via dvd required by Paragraphs 13 (a) and (c) have occurred that the training has taken place and the personnel who attended. Such certification

shall include: (i) the dates, location and duration of the management 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 as of the date of the training.

RECORDKEEPING

16. For a period of four (4) years following entry of this Decree, Dellovade shall document and retain records of each complaint of an incident of discrimination or harassment, based on race and/or retaliation for filing a complaint of racial harassment by any employee, reflecting the date the complaint was made, who made it, what was alleged and the actions, if any, Dellovade took to resolve the matter, and shall at its expense make such records available for inspection and copying by the EEOC.

17. Dellovade shall make all documents or records referred to in Paragraph 16 available for inspection and copying within 10 business days after the EEOC so requests. In addition, Dellovade 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 Dellovade' premises for such purposes on five business days' advance notice by the EEOC.

18. Nothing in this Decree shall be construed to limit any obligation Dellovade 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 Dellovade as required by law and Commission regulations.

REPORTING

19. Dellovade shall furnish to the EEOC the following written reports 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) a summary of the information recorded by Dellovade pursuant to Paragraph 16, if any such complaints were filed, and to include the name of the complainant, the allegation of the complaint and any action taken by Dellovade in response;

(b) a certification by Dellovade that the Notice required to be posted by Paragraph 16 was posted during the six months preceding the report;

(c) a certification by Dellovade that it has or will distribute the policy or policies against discrimination, harassment and retaliation annually to employees, and that Dellovade 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 Dellovade has complied with training requirements of this Consent Decree;

(e) a summary of any additional actions Dellovade took to prevent discrimination, harassment and retaliation during the six-month period preceding the report.

MISCELLANEOUS PROVISIONS

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

21. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, successors and assigns of Dellovade in their capacities as representatives, agents, directors and officers of Dellovade 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.

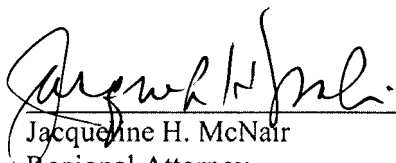
22. This Consent Decree shall be filed in the United States District Court for the Eastern District of Pennsylvania and shall continue in effect for four (4) years. During this time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, 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.

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

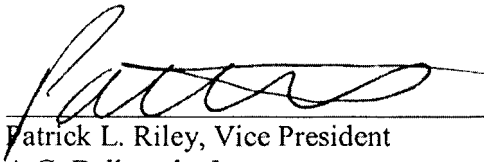
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COMMISSION
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107
(215) 440-2688
Counsel for Plaintiff EEOC

Dated: 5-5-08

SO ORDERED:

By the Court: Thomas M. Golden
THOMAS M. GOLDEN, U.S.D.J.

Date: 5/7/08

Exhibit 1

NOTICE TO ALL A.C. DELLOVADE EMPLOYEES

This Notice is posted pursuant to a Consent Decree entered by the federal court for the Eastern District of Pennsylvania in EEOC v. A.C. Dellovade, et al, Civil Action Number 05-3389, resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against A.C. Dellovade ("Dellovade"). The EEOC filed its lawsuit alleging Defendant A.C. Dellovade, Inc. discriminated against an employee based on his race, Black. A.C. Dellovade, Inc. filed an Answer to the Complaint which denied the claims in the lawsuit.

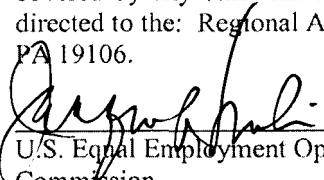
Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., as amended ("Title VII"), prohibits discrimination against employees and applicants for employment based upon race, national origin, sex, color or religion. Title VII further prohibits retaliation against employees or applicants who 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.

To resolve the case, Dellovade and the EEOC have entered into a Consent Decree which provided, among other things, that: (1) Dellovade pay monetary relief to the aggrieved individual; (2) Dellovade shall not discriminate on the basis of race in the future; (3) Dellovade shall 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) Dellovade will train all managers, supervisors, and employees 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 (4) 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



A.C. Dellovade

DATED: 5/2/08

DATED: 4/25/08