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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

MAY 4 2004

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

EQUAL EMPLOYMENT OPPORTUNITY §
COMMISSION, §
§
Plaintiff, §
§
v. §
§
DT MANAGEMENT, INC., §
§
Defendant. §

CONSOLIDATED
CIVIL ACTION NUMBER
A-03-CA-596-SS

SETTLEMENT AGREEMENT

The parties to this Settlement Agreement are the Plaintiff United State Equal Employment Opportunity Commission ("EEOC") and DT Management, Inc. ("DT"). This Settlement Agreement resolves only the EEOC's claims in the above-referenced consolidated Civil Action No. A-03-CA-596-SS.

The EEOC and DT wish to settle this action without the necessity of further litigation, pursuant to the terms delineated in this Settlement Agreement. By entering into this Settlement Agreement, DT expressly denies the validity of any claim and/or cause of action asserted in the Complaint, and DT enters into the Settlement Agreement for the sole purpose of avoiding the expenses associated with this litigation. DT further asserts that by entering into this Settlement Agreement it makes no admission of liability or wrongdoing and makes no admission that its alleged conduct was improper, discriminatory or illegal in any respect.

IT IS AGREED as follows:

1. This Court has jurisdiction of the subject matter of the action and the parties, venue is proper and all administrative prerequisites to the filing of this action have been met.

2. This Settlement Agreement resolves all issues and/or causes of action asserted by and/or on behalf of Petra Ugarte, as alleged in the EEOC's Complaint and those claims raised in Petra Ugarte's charge of discrimination, Charge No. 36A-2002-00382. The EEOC expressly reserves its right, however, to process and litigate any other charge which may now be pending or may in the future be filed against DT.

3. The duration of this Settlement Agreement shall be two (2) years from the date of filing with the Court. DT shall be dismissed with prejudice pursuant to the Joint Motion for Dismissal filed contemporaneously herewith, subject to the Court's ancillary jurisdiction to ensure implementation and enforcement of the Settlement Agreement. In the event there is a question as to compliance with or implementation of the Settlement Agreement, before seeking assistance from the Court, the party complaining about compliance and/or implementation shall first send a letter detailing all issues it believes fail to comply with the Settlement Agreement and allow the receiving party ten (10) business days to respond to such letter. If the issues are not resolved by correspondence, the parties shall within twenty (20) business days of the date of the response meet face-to-face to discuss the issues believed to not comply with the Settlement Agreement. If no resolution can be reached after the face-to-face conference, the party complaining about compliance may then file a motion with the Court to enforce the Settlement Agreement. Any motion filed with the Court must certify that both the correspondence and the face-to-face prerequisites have been met.

4. The scope of the Settlement Agreement is limited in its application to the DT location at which the initial charge of discrimination arose in Austin, Texas.

5. Within thirty (30) days of the Court's entry of the Order of Dismissal, DT shall pay two hundred eighty-five thousand and 00/100 dollars (\$285,000.00) to Petra Ugarte, in

accordance with the terms and conditions of a separate settlement agreement entered into by and between Petra Ugarte and DT. A copy of the settlement checks(s) and any accompanying transmittal documents shall be forward to the EEOC to the attention of Robert B. Harwin, Regional Attorney, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

6. Subject to the provisions of paragraph 4 above, DT and its officers, agents, management, successors, and assigns shall not discriminate against any employees on the basis of sex in violation of Title VII.

7. Subject to the provisions of paragraph 4 above, DT, its agents, officers, employees, servants, successors, and assigns, shall retain its practice of maintaining its sexual harassment policy which currently meets the following criteria:

- a. States that DT: (i) prohibits discrimination against employees on the basis of sex in violation of Title VII; (ii) prohibits any act, policy or practice that has the effect of harassing or intimidating any employee on the basis of sex in violation of Title VII; and (iii) 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 or verbal abuse and derogatory comments based on sex in violation of Title VII;
- b. Defines and provides example of sexual harassment;
- c. Provides for prompt investigation of sexual harassment complaints and for prompt action, which is appropriate and effective, to remedy the discrimination;

- d. Promptly communicates to the complaining party upon the conclusion of its investigation the results of the investigation and the remedial actions taken or proposed, if any; and
- e. Provides for discipline for violating DT's sexual harassment policy up to and including discharge.

8. Subject to the provisions of paragraph 4 above, DT shall maintain the current complaint procedure in its Employee Handbook that is designed to encourage employees to come forward with complaints regarding violations of the sexual harassment policy regardless of the position held by the alleged harasser.

9. Subject to the provisions of paragraph 4 above, DT shall promote manager and supervisor accountability by providing the following:

- a. Annual two (2) hour sexual harassment training to all of its managerial, and/or supervisory personnel as stipulated in paragraphs 10 through 12;
- b. The training shall include: (i) explaining that sexual harassment is unlawful; (ii) instructing what conduct may constitute sexual harassment; (iii) explaining the effects sexual harassment may have on its victims, their families, their co-workers, and the workplace environment; (iv) information so that supervisors and management know how to enforce DT's sexual harassment policy; (v) information regarding discipline, up to and including discharge, of any supervisor or manager who violates DT's sexual harassment policy; (vi) requiring all supervisors and management to monitor their work areas to ensure compliance with DT's sexual harassment policy; (vii) requiring all supervisors and management to

report any incidents and/or complaints of sexual harassment of which they become aware to the person charged with handling such complaints.

10. Subject to the provisions of paragraph 4 above, DT will provide annual training to all employees on Title VII according to the follow terms:

- a. DT shall, for the term of this Settlement Agreement, retain and pay Gardere Wynne Sewell LLP to provide annual training, lasting no fewer than two (2) hours in length, on the subject of the provisions of Title VII;
- b. The training will be provided to all DT employees. A qualified interpreter shall translate this training into the Spanish language for the benefit of any employee that desires training in Spanish. All participants shall be required to sign a registry upon completion of the training; and
- c. DT shall provide the initial training session in accordance with this paragraph within 90 calendar days after the entry of this Settlement Agreement.

11. Within twenty (20) business days prior to any proposed training pursuant to this Settlement Agreement, DT shall submit the date(s) of the proposed training session and a topic outline of the contents of the training to EEOC. EEOC shall then have ten (10) business days from the date of receipt of the information to accept or reject the proposed contents of the topic outline. In the event that EEOC does not approve DT's outline, DT shall have ten (10) business days to submit a revised outline.

12. During the first year of the Settlement Agreement, DT shall provide EEOC with copies of pamphlets, brochures, outlines or other written, audio taped or videotaped materials(s) provided to the participates of all training sessions(s) within ten (10) business days after the

initial training, if any. If during the term of the Settlement Agreement, the pamphlets, brochures, outlines or other written, audio taped or videotaped material(s) provided to the participants of such training sessions(s) are revised, supplemented and/or otherwise amended, all such materials shall be provided to the EEOC within ten (10) business days after such revisions, supplementation, and/or amendments.

13. During the remaining term of this Settlement Agreement and within ten (10) business days after the anniversary of the date of entry of the Settlement Agreement, DT shall provide this same training pursuant to and in compliance with paragraphs 10 through 12 for all new employees, and for those employees who missed the initial training session.

14. DT shall certify annually to EEOC, in writing, that the training has taken place and that required personnel attended. Such certification shall include:

- a. The date, location and duration of the training;
- b. A copy of the registry of attendance which shall include the name and position or titled of each person in attendance; and
- c. A listing of all current management and supervisors as of the date of training.

15. Within ten (10) business days after entry of this Settlement Agreement, DT shall post copies of the Notice (8 ½ in. x 11 in.) attached as **Exhibit "A"** to this Settlement Agreement at the location defined by paragraph 4, in a location easily accessible to and commonly frequented by employees. The Notice shall remain posted for the duration of this Settlement Agreement from the date of entry of this Settlement Agreement. DT shall certify to the EEOC in writing within ten (10) business days after entry of the settlement Agreement that the Notice has been properly posted.

16. During the term of the Settlement Agreement, DT shall maintain records (including name, sex, age, social security number, address and telephone number) of each person who complains, either formally or informally, of sexual harassment or hostile work environment based on sex. Additionally, DT shall maintain records of the investigation and resolution of each complaint.

17. The terms of the Settlement Agreement shall be binding upon the EEOC and DT and their agents officers, employees, servants, successors and assigns, as to the issues resolved herein.

18. The parties to this Settlement Agreement shall bear their own costs and attorney's fees incurred in this action. The parties agree that, pursuant to Section 706(k) of Title VII, 42 U.S.C. § 2000e-5(k), there is no "prevailing party" in this action or proceeding.

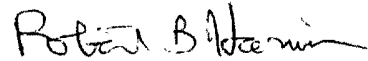
AGREED AS TO FORM AND SUBSTANCE:

Respectfully submitted,

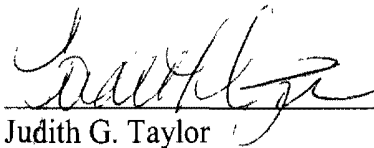
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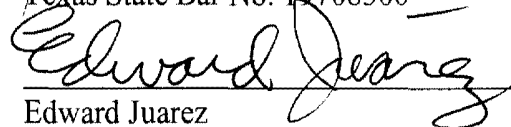
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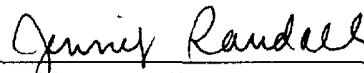
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