

**FILED**

JUN 18 2003

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

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

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

**v.**

**NBC MANAGEMENT, INC.,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**Civil Action No. A-02-CA-609-H**

**CONSENT DECREE**

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), and Defendant, NBC Management, Inc. ("NBC"). This Consent Decree resolves the allegations raised by the EEOC in the above-referenced Civil Action No. A-02-CA-609. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended and Title I of the Civil Rights Act of 1991, to correct alleged unlawful employment practices on the basis of retaliation for opposing discrimination or participating in protected activities and to provide appropriate relief to Melissa Aranda, who the EEOC maintains was adversely affected by these alleged practices. The EEOC alleges that Defendant, NBC Management, Inc., discriminated against Melissa Aranda when it terminated her employment for engaging in protected activity under Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a). NBC Management, Inc. denies this allegation and that it engaged in any unlawful employment practices.

To avoid the expense and uncertainty of further litigation, the EEOC and Defendant, NBC Management, Inc., wish to settle this action, without the necessity of further litigation, pursuant to the terms delineated in this Decree.

16

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties; venue is proper; and all administrative prerequisites to the EEOC's filing of this action have been met. The parties stipulate to the Court's jurisdiction.

2. NBC Management, Inc. denies that it retaliated against Ms. Aranda or engaged in any unlawful employment practices as alleged in the Complaint. This Decree is not an admission by NBC Management, Inc. of liability, which has been denied, nor is there any finding of retaliation, discrimination or liability.

3. This Decree resolves those claims against NBC Management, Inc. raised in EEOC's Complaint in this case. EEOC expressly reserves its right to process and litigate any other charges which may now be pending or may in the future be filed against Defendant NBC Management, Inc.

4. The duration of this Decree shall be three (3) years from the date of its entry by the Court. This Court retains jurisdiction of this action for that three year period and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of its provisions. In the event that the Court finds that the terms of the Consent Decree have been violated, the EEOC shall have the right to request the Court to toll the term of the Consent Decree for up to the period of the violation.

5. Defendant NBC Management, Inc. will not retaliate in any manner against Melissa Aranda for opposing any employment practice made unlawful by Title VII, or for filing a discrimination charge, giving testimony or assistance, or participating in any manner in any investigation, proceeding, hearing or action under Title VII.

6. Within 90 days of the date of this Decree, Defendant NBC Management, Inc. shall

distribute copies of the Notice, attached as Exhibit "A," to all supervisory and managerial employees employed by Defendant NBC Management, Inc. at its Austin, Texas facility. Each supervisory and managerial employee will sign an acknowledgment form, indicating that he/she has read and understood the terms of the Notice.

7. Within 180 days of the entry of this Decree, NBC Management, Inc. shall provide to the EEOC evidence that its managerial, supervisory, and all employees with authority to make recommendations and/or decisions that affect personnel actions have received a minimum of four (4) hours of training explaining that retaliation against employees who make, provide testimony, assistance or participate in any investigation, proceeding, hearing or action under Title VII is prohibited. Within thirty (30) days prior to the date scheduled for this training, Defendant NBC Management, Inc. shall furnish to the EEOC a written report describing the training to be attended by NBC Management, Inc.'s management team, identifying the instructor(s) and describing their qualifications to conduct such training, and the EEOC shall have the right to approve the training and the instructor. The EEOC agrees that the instructor may be an employee of NBC Management who has received appropriate training on antidiscrimination laws and agrees not to unreasonably withhold its approval of the training and the instructor. The EEOC expressly approves Fulbright & Jaworski L.L.P. to conduct this training.

8. Following the entry of this Decree, Melissa Aranda shall deliver to David Rivela, Attorney, San Antonio District Office, United States Equal Employment Opportunity Commission, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas, the Settlement Agreement and Release attached as Exhibit B to this Consent Decree, along with a completed IRS W-9 form. The EEOC will then forward those documents to counsel for NBC Management, Inc. Within fourteen days of

delivery of the executed Settlement Agreement and Release and I-9 form to its counsel, Defendant NBC Management, Inc., in settlement of this dispute, shall deliver to Melissa Aranda a signed copy of the Settlement Agreement and Release, along with \$7,000.00 (SEVEN THOUSAND AND 00/100 DOLLARS). No later than ninety days after receipt of the Settlement Agreement and Release, Defendant NBC Management, Inc. shall pay an additional \$7,000 (SEVEN THOUSAND AND 00/100 DOLLARS) to Melissa Aranda. Each of these two payments shall be made by check and the obligation is satisfied by placing payment in the United States mail, return receipt requested, directly to Melissa Aranda at the following address: Melissa Aranda, 739 W. William Cannon Dr. #1008, Austin, Texas 78745. Should the funds not subsequently be received, NBC Management, Inc. and Melissa Aranda shall cooperate to accomplish delivery.

9. A copy of all the settlement checks, and any accompanying transmittal documents shall be forwarded to: David Rivela, Attorney, San Antonio District Office, United States Equal Employment Opportunity Commission, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

10. The terms of this Decree shall be binding upon the EEOC and Defendant NBC Management, Inc., its agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

11. The parties to this Decree 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, and all relief not expressly granted is denied.

The Clerk shall furnish a copy hereof to each attorney of record

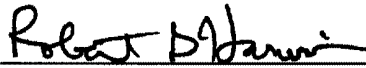
SO ORDERED.

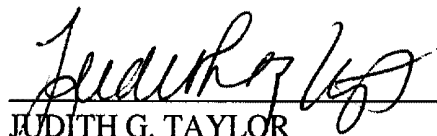
Signed this 18<sup>th</sup> day of June, 2003.

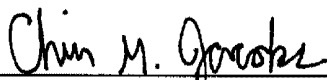
  
HARRY LEE HUDSPETH  
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

GWENDOLYN YOUNG REAMS  
Associate General Counsel

  
ROBERT B. HARWIN  
Regional Attorney  
D.C. State Bar No. 076083

  
JUDITH G. TAYLOR  
Supervisory Trial Attorney  
Texas State Bar No. 19708300

  
BRIAN S. GREIG  
Texas State Bar No. 08439800  
CHRIS G. JACOBS  
Texas State Bar No. 24027023

FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Ave., Suite 2400  
Austin, Texas 78701  
Telephone: (512) 474-5201  
Telecopier: (512) 536-4598

**ATTORNEYS FOR DEFENDANT**

  
DAVID RIVELA  
Texas State Bar No. 00797324

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
5410 Fredericksburg Road, Suite 200  
San Antonio, Texas 78229  
Telephone: (210) 281-7619  
Telecopier: (210) 281-7669

**ATTORNEYS FOR PLAINTIFF**

**NOTICE TO ALL EMPLOYEES**

NBC MANAGEMENT, INC. SUPPORTS FEDERAL LAW REQUIRING THERE BE NO DISCRIMINATION AGAINST ANY APPLICANT OR EMPLOYEE BECAUSE OF HIS OR HER RACE, COLOR, SEX, NATIONAL ORIGIN, RELIGION, AGE OR DISABILITY AND REAFFIRMS ITS COMMITMENT NOT TO DISCRIMINATE AGAINST ANY APPLICANT OR EMPLOYEE ON ANY TERM OR CONDITION OF EMPLOYMENT. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, INCLUDING HIRING OR REHIRING, RECRUITMENT, RETENTION, PROMOTION, TRANSFER, LAYOFF AND/OR TERMINATION, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

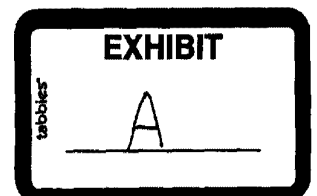
NBC MANAGEMENT, INC. WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE FOR OPPOSING EMPLOYMENT DISCRIMINATION, FOR FILING OR PARTICIPATING IN A CHARGE OF EMPLOYMENT DISCRIMINATION, AND/OR FOR ASSOCIATING WITH AN EMPLOYEE WHO OPPOSES EMPLOYMENT DISCRIMINATION OR FILES OR PARTICIPATES IN A CHARGE OF EMPLOYMENT DISCRIMINATION

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, OR DISABILITY, OR THAT YOU ARE BEING SUBJECTED TO HARASSMENT BECAUSE OF YOUR GENDER OR HAVING ENGAGED IN TITLE VII-PROTECTED ACTIVITY, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, THE PERSONNEL DEPARTMENT, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 5410 FREDERICKSBURG ROAD, SUITE 200, SAN ANTONIO, TEXAS 78229-3550, (210) 281-7600 OR 1-800-669-4000.

NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

EEOC ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN; THE AGE DISCRIMINATION IN EMPLOYMENT ACT; THE EQUAL PAY ACT; PROHIBITIONS AGAINST DISCRIMINATION AFFECTING INDIVIDUALS WITH DISABILITIES; SECTIONS OF THE CIVIL RIGHTS ACT OF 1991, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT, WHICH PROHIBITS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN THE PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.

**EXHIBIT "A"**



## SETTLEMENT AGREEMENT AND RELEASE

In complete settlement of any and all pending or potential disputes between the parties Melissa Aranda ("Aranda"), on the one hand, and NBC Management, Inc. ("NBC") on the other hand (collectively referred to as the "Parties"), including but not limited to all claims which were or could have been raised in the Charge of Discrimination #36AA200143 (hereinafter the "EEOC Charge") filed by Aranda against NBC, the Parties voluntarily enter into this Confidential Settlement Agreement and Release (the "Agreement").

1. General Release Language: Aranda, for herself and anyone who could bring a claim on her behalf, fully releases NBC and any related businesses, along with the Company's current and former employees, directors, agents, owners, attorneys and insurers (called the "Releasees"), from any and all claims, causes of action, damages, and attorneys' fees arising out of the events made the basis of her EEOC Charge. This includes causes of action that are not brought under Title VII but that arise out of the discharge made the basis of her EEOC Charge. Aranda further agrees not to sue Releasees in connection with her discharge.

2. Payment: Because of Aranda's promises in this Agreement, NBC agrees to pay Aranda the total sum of Fourteen Thousand Dollars (\$14,000.00). Aranda acknowledges and agrees that this consideration is all she will receive from the Releasees, and that she expects no other consideration. The payments to Aranda will be structured as set forth in Paragraph 8 of the Consent Decree entered to in the case styled A-02-CA-609-H., Equal Employment Opportunity Commission v. NBC Management, Inc.

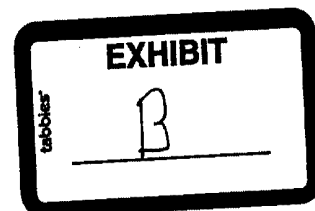
3. Tax Liability; Indemnification: Aranda agrees that all of her tax obligations which may arise from the payments set forth in Paragraph 2 shall be her sole obligation, and that she indemnifies NBC against any and all costs, penalties, taxes, fees or other payments made or required as a result of the payment. Aranda acknowledges that she has not relied upon any representation of NBC or its attorneys as to the taxability or nontaxability of said monies.

4. Non-Admissions: Aranda acknowledges that by entering into this Agreement, neither NBC nor any other Releasee admits any violation of any law or wrongdoing. Aranda acknowledges and agrees that this Agreement shall not represent any kind of admission of fault, which is expressly denied by NBC.

5. Severability: If any provision of this Agreement is held to be invalid, the Parties agree that the rest of the Agreement shall remain in full force and effect, with the exception that Aranda must return the payment referred to in Paragraph 2 if Paragraph 1 is held invalid.

6. Entire Agreement: This Agreement constitutes the entire agreement between Aranda and NBC on the issue of Aranda's release of NBC and on severance payments.

7. Voluntary Agreement; Opportunity to Confer with Counsel: The Parties agree that they have read this Agreement and that they have been encouraged to consult their own attorneys if they have any questions regarding the Agreement; that they are entering into this Agreement



with full understanding of its legal consequences; and that they agree to be bound by the Agreement.

**IN WITNESS WHEREOF**, I have reviewed this Settlement Agreement and Release, understand and agree to be bound by its terms, and have signed this Agreement knowingly, as a voluntary act of my own free will and deed, and after having had the opportunity to review and discuss its terms with legal counsel of my choosing.

MELISSA ARANDA

Date: \_\_\_\_\_

\_\_\_\_\_  
By: MELISSA ARANDA

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2003, by Melissa Aranda.

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

NBC MANAGEMENT, INC.

Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
The State of Texas