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WESTERN DISTRICT OF TEXAS
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

AUG 22 2000

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

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
PERSONACARE OF SAN PEDRO D/B/A)
SAN PEDRO MANOR,)
Defendant.)
_____)

Civil Action No. SA00CA667FB

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), and Defendant, PERSONACARE of San Pedro d/b/a San Pedro Manor ("San Pedro Manor"). This Consent Decree resolves the above-referenced Civil Action No. SA00CA667FB. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. §1981a. The Complaint was filed to correct alleged unlawful employment practices on the basis of sex (female) and to provide appropriate relief to Yesenia Brothers and a class of females, who were adversely affected by such practices. The Commission alleges that Yesenia Brothers, a female, and a class of females were sexually harassed by a supervisor while employed by Defendant San Pedro Manor because of their sex, female. Defendant, San Pedro Manor specifically denies these allegations.

The EEOC and San Pedro Manor wish to settle this action, without the necessity of further litigation, pursuant to the terms delineated in this Decree.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

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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. The Complaint states claims on behalf of Yesenia Brothers and a class of females, which, if proved, would authorize this Court to grant relief against Defendant San Pedro Manor, pursuant to Title VII.

2. This Decree resolves all issues raised in EEOC's complaint in this case. EEOC waives further litigation of all issues raised in the above-referenced complaint. EEOC expressly reserves its right, however, to process and litigate any other charges which may now be pending or may in the future be filed against San Pedro Manor, and which are unrelated to the facts and claims associated with and related to the Charge filed by Yesenia Brothers against San Pedro Manor and assigned Charge Number 360 98 1256.

3. The duration of this Decree shall be one year from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Decree and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of its provisions. Any violation of the Consent Decree by Defendant San Pedro Manor or its agents or assigns shall toll the running of this one-year period as of the date of the violation. If the Court subsequently determines this Decree was violated, the one-year period shall recommence and continue from the date of entry of an Order setting out such a violation or until such time as ordered by the Court. Should the Court find the Decree was not violated, the one-year period shall recommence, retroactive to the date of the filing of the pleading alleging that a violation had occurred.

4. Defendant San Pedro Manor, in settlement of this dispute, shall pay a total of \$5,000.00 to Yesenia Brothers; and payment shall be mailed directly to Yesenia Brothers at 5911 Saint Ark, San Antonio, Texas 78220. Payment shall be made by cashier's check. Payment shall

be made within 20 days after the conclusion of Defendant's Chapter 11 Bankruptcy proceeding, which is currently pending in the United States Bankruptcy Court for the District of Delaware. A copy of the check and accompanying transmittal papers shall be contemporaneously forwarded to Robert B. Harwin, Regional Attorney, Equal Employment Opportunity Commission, Mockingbird Plaza II, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229. Entry by San Pedro Manor into settlement, mediation or compromise negotiations does not constitute a waiver of the automatic stay applicable to judicial, administrative or other actions or proceedings against San Pedro Manor pursuant to Section 362 of the Bankruptcy Code. The settlement amount shall become a general unsecured claim up to the full amount of the settlement against San Pedro Manor.

5. Defendant San Pedro Manor, its agents, officers, employees, servants, successors, and assigns, are enjoined, during the term of this Decree, from discriminating against any employee on the basis of sex, and from engaging in any other act or practice which has the purpose or effect of unlawfully discriminating against any past, present, or future employee on the basis of sex. The conduct enjoined includes sexual harassment.

6. Defendant San Pedro Manor, its agents, officers, employees, servants, successors, and assigns, shall post a notice regarding its practices, policies, and intent not to discriminate against any employee in violation of Title VII. Such notice shall be as set forth in Exhibit A, which is attached to this Decree. A copy of Exhibit A shall be posted at Defendant San Pedro Manor's San Antonio, Texas facility, also commonly known as San Pedro Manor, on all employee bulletin boards and other areas where employees are likely to congregate. The notices shall be posted within 10 days of the filing date of this Decree and shall remain posted for the duration of the Decree.

7. To further the ends of this Consent Decree, within 90 days of the date of entry of this Decree, all supervisory, managerial and non-supervisory and non-managerial employees employed

by Defendant San Pedro Manor who work at its San Pedro Manor facility in San Antonio, Texas, shall participate in EEO training, which includes anti-sexual harassment training, of not less than four hours. This training shall explain the law relating to sexual discrimination, including sexual harassment. Within 30 days prior to the date scheduled for this training, Defendant San Pedro shall furnish to the EEOC a written report describing the sexual discrimination training to be attended by the employees referred to in this paragraph, identifying the instructor(s) and describing his/her/their qualifications to conduct such training, and the EEOC shall have the right to approve the training and/or the instructor(s).

8. The EEOC shall have the right to ensure compliance with the terms of this Decree and may after written request is served on Defendant San Pedro Manor giving it reasonable notice: (a) conduct inspections of Defendant San Pedro Manor's San Antonio Texas facility, also known as San Pedro Manor; (b) interview employees; and (c) examine and copy relevant documents at any time.

9. The terms of this Decree shall be binding upon the EEOC and Defendant San Pedro Manor, its agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

10. Each party shall bear its own costs, including attorney's fees, incurred in this action.

11. The parties agree that there is no prevailing party in this action or proceeding.

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

SO ORDERED.

Signed this ^L 22 day of August, 2000.

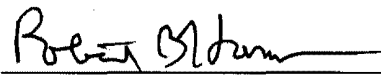


FRED BIERY
UNITED STATES DISTRICT JUDGE



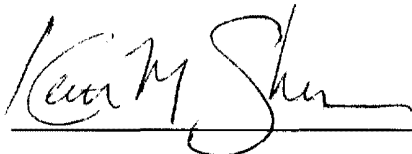
Respectfully Submitted,

C. GREGORY STEWART
General Counsel

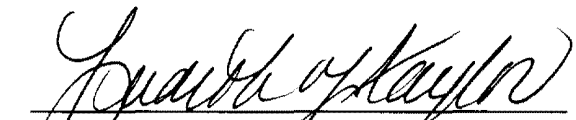
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FOR DEFENDANT

ATTORNEYS FOR PLAINTIFF

NOTICE TO ALL EMPLOYEES

PERSONACARE OF SAN PEDRO D/B/A SAN PEDRO MANOR IS FIRMLY COMMITTED TO TREATING EMPLOYEES AND APPLICANTS FOR EMPLOYMENT ACCORDING TO MERIT WITHOUT REGARD TO THEIR SEX. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, INCLUDING RECRUITMENT, RETENTION, PROMOTION, TRANSFER, LAYOFF AND/OR TERMINATION, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT. SAN PEDRO MANOR WILL SPECIFICALLY NOT TOLERATE SEXUAL HARASSMENT.

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR SEX, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, 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"