

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL ACTION NO.

v.

LUMBERTON MUNICIPAL UTILITY
DISTRICT,

Defendant.

CONSENT DECREE

This action was brought by the United States against the Lumberton Municipal Utility District ("LMUD" or "Defendant") to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended (Title VII), following receipt by the Department of Justice from the Equal Employment Opportunity Commission (EEOC) of charges of discrimination filed by Michelle L. Brewer, Jennifer Gay Soape, Patsy Lamb, and Judy Biscamp ("charging parties"), EEOC charge numbers 330-97-1610, 330-97-2491, 330-97-2291 and 330-97-2097.

In its Complaint, the United States alleges that Defendant LMUD has discriminated against Michelle L. Brewer, Jennifer Gay Soape, Patsy Lamb, and Judy Biscamp, females currently or formerly employed by the LMUD, because of their sex in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-2(a), by subjecting them to sexual harassment that adversely affected the terms, conditions and privileges of their employment and failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

The LMUD denies that it has discriminated against the charging parties on the

basis of their sex in violation of Title VII. Nevertheless, the parties, desiring that this action be settled by appropriate Decree and without the burden of protracted litigation, agree to the jurisdiction of this Court over the parties, and the subject matter of this action, and hereby waive, for the purposes of this Decree only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Order as final and binding among themselves as to the issues raised in the Complaint filed in this case.

This Decree, being entered with the consent of the parties, shall in no way constitute an adjudication or finding of any wrongdoing or violation of any applicable federal or state law or regulation, nor be construed as an admission by the LMUD.

In resolution of the action, the parties hereby AGREE and the Court expressly APPROVES, ENTERS and ORDERS the following:

SPECIFIC RELIEF

1. The Defendant shall pay Michelle L. Brewer a monetary award of \$35,000.00. This monetary award shall be considered compensatory damages.
2. The Defendant shall pay Jennifer Gay Soape a monetary award of \$25,000.00. This monetary award shall be considered compensatory damages.
3. The Defendant shall pay Patsy Lamb a monetary award of \$15,000.00. This monetary award shall be considered compensatory damages.
4. The Defendant shall pay Judy Biscamp a monetary award of \$15,000.00. This monetary award shall be considered compensatory damages.
5. The parties agree that these monetary awards represent a reasonable settlement of the United States' and charging parties' claims of compensatory damages under Title VII and are not tied to any claims for back or future wages. They are therefore mutually understood to be payments on account of personal injury for pain and suffering. No amounts will be withheld for taxation purposes against the monetary awards. Defendant LMUD shall inform each charging party in a notice letter to her (Appendix A, attached hereto) that this award may be subject to federal income tax and state income tax.

6. The Defendant shall ensure that if inquiry is made by prospective employers or third parties concerning Ms. Brewer, Ms. Soape, Ms. Lamb or Ms. Biscamp's employment with the LMUD, the Defendant shall not make any reference to the charging parties' complaints of sexual discrimination or harassment.

7. The Defendant agrees to notify each charging party of the terms of this Decree within ten (10) days of its entry by sending a copy of the letter set forth in Appendix A to this Decree, along with a copy of this Decree and payment in the full amount of the monetary award for each charging party.

GENERAL RELIEF

8. The Defendant by and through its officials, agents, employees and all persons in active concert or participation with the Defendant in the performance of employment or personnel functions shall not engage in any act or practice that has the purpose or effect of unlawfully discriminating against any employee in any term, condition or privilege of employment because of such employee's sex.

9. The Defendant agrees not to retaliate against or in any respect adversely affect any person because that person has

opposed allegedly discriminatory policies or practices; filed a charge, either formal or informal, with the Defendant; filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) or the Texas Commission on Human Rights; or participated in or cooperated with the initiation, investigation, litigation or administration of this case or this Consent Decree ("Decree").

Complaint and Investigation Procedure

10. The Defendant agrees to take appropriate measures to ensure that sexual harassment complaints are promptly investigated and that prompt and effective remedial action is taken in response to such complaints. These measures include, but are not limited to, establishing an internal complaint and investigatory procedure that designates one or more Board Members or supervisory level officials with the responsibility for receiving and investigating all allegations of sexual harassment, making factual findings,

and recommending discipline where appropriate. If any LMUD supervisor or Board Member receives a complaint of sexual harassment, he or she shall promptly forward it to the designated individual(s) for investigation unless the complaint is against the designated individual(s), in which case the LMUD shall designate another appropriate person to conduct the investigation.

11. No later than thirty (30) days after entry of this Decree, and periodically thereafter as appropriate, the designated individual(s) shall be provided with training on the law of sexual harassment and the appropriate methods for investigating and responding to complaints of sexual harassment. The LMUD shall provide the United States with written confirmation of this training no later than ten (10) days after it is provided.

12. The investigation of a complaint of sexual harassment shall be completed and written findings, including any recommended discipline, shall be issued promptly. A copy of the written findings shall be provided to the complainant within five (5) days of issuance.

13. The LMUD shall provide the United States with a copy of any complaint of sexual harassment within five (5) days of its receipt of such complaint. The LMUD shall provide the United States with a copy of the written findings of the investigation into the complaint of sexual harassment and a written explanation of any disciplinary proceeding resulting from a complaint within five (5) days after such written findings are issued and any disciplinary proceeding is held.

Issuance and Distribution of Policy Prohibiting Sexual Harassment

14. No later than thirty (30) days after the entry of this Decree, the Defendant shall issue and revise, as necessary, its written policy prohibiting sexual harassment. This policy shall embody the provisions set forth in Appendix B.

15. Defendant shall issue and distribute the policy prohibiting sexual harassment to all of its employees within seven (7) days of its issue, and to all employees whom it hires after entry of this Decree, within seven (7) days of their hire. Defendant shall require each current and future employee to sign an acknowledgment of receipt of the policy statement.

16. Defendant shall post the sexual harassment policy statement in a

prominent, conspicuous, centrally-located place commonly used for posting notices (e.g., bulletin boards) in all LMUD buildings and facilities. This posting requirement shall survive the expiration of this Decree.

Sexual Harassment Training

17. No later than ninety (90) days from the date of entry of this Decree, the LMUD shall provide training to all employees, both supervisory and non-supervisory, and all LMUD Board Members regarding sexual harassment. This training shall at a minimum instruct employees on what acts may constitute sexual harassment; the procedures for reporting and investigating complaints of sexual harassment, including the employee's freedom to report sexual harassment to someone other than his or her immediate supervisor; and assure employees that they will not be subject to retaliation for filing a sexual harassment complaint. The United States shall review and approve any proposed training program prior to its administration.

18. Participation in the training program shall be mandatory for all employees and LMUD Board Members. All LMUD employees shall sign an acknowledgment of attendance for any and all training instituted concerning sexual harassment. The LMUD shall retain a copy of the registry of persons attending the seminar and a list of employees of the LMUD on the day of the seminar-training session.

Implementation

19. The parties shall attempt to resolve informally any disputes that may occur under this Decree. If the parties are unable to reach agreement after a matter has been brought to the attention of one of the parties by the other party, the issue may be submitted by either party to the Court for resolution.

20. The Defendant shall retain during the life of this Decree records necessary to document the implementation of the Decree. The Defendant shall make those records and all other documents relevant to its compliance with and implementation of this Decree available for inspection and copying, within thirty (30) days of any written request sent by the Department of Justice to the Defendant's attorney. The Defendant shall similarly furnish information or reports on matters relevant to compliance with and implementation of the Decree to the Department of Justice within thirty (30) days of any written

request to the Defendant's attorney.

21. The parties shall bear their own costs in this action, including attorney's fees, except that the parties shall retain the right to seek costs for any matter which, in the future, may arise from this Decree and require resolution by the Court.

22. The Court shall retain jurisdiction of this action for one (1) year from the date of entry of this Decree for the purpose of enforcing the Decree as may be necessary. After one year, this matter shall be dismissed unless the United States moves, for good cause shown upon notice to the Defendant, for its continuation to carry out the purpose or provisions of this Decree. In the event that the United States moves to extend this Decree, this Decree shall remain in effect until the motion is resolved.

DONE and ORDERED this day of _____ 2000.

UNITED STATES DISTRICT JUDGE

By Consent:

For the Defendant:

Christopher T. Coco, Esq.
Germer, Bernsen
& Gertz, L.L.P.
805 Park Street Beaumont, Texas 77701

Nick Carter
President
Lumberton Municipal Utility
District Board of Directors

For the Plaintiff:

William B. Fenton
Jenny R. Yang
Dawn Henry

U. S. Department of Justice
Civil Rights Division
Employment Litigation Section
P. O. Box 5968 Washington, D.C. 20035-55968

APPENDIX A

NOTICE LETTER

Ms. [Charging Party]

[Address]

Dear Ms. [Charging party]:

Enclosed please find a copy of the consent decree that has been entered settling a complaint of employment discrimination filed by the United States against the Lumberton Municipal Utility District ("LMUD").

Under the terms of the Consent Decree entered in the case of United States v. Lumberton Municipal Utility District, Civil No. ____ (E.D. Tex.), you are receiving a monetary award of \$_____. The parties, by their counsel, understand that you are, after having consulted with private counsel, agreeable to signing a release requested by defendant LMUD.

Although the LMUD will not withhold federal income tax from this award, you should be aware that pursuant to Section 104 of the Internal Revenue Code, as amended by Section 1605 of the Federal Small Job Protection Act of 1996, damages related to pain and suffering or emotional distress are generally taxable under Federal law. Your monetary award may also be taxable under Texas law. You should consult with a tax adviser in determining the taxability of this monetary award.

If you have any questions concerning this settlement, you may contact Jenny R. Yang, attorney for the United States Department of Justice at (202) 307-3925.

Sincerely,

Christopher T. Coco, Esq.
Germer, Bernsen & Gertz, L.L.P.
Attorneys at Law
805 Park Street
Beaumont, Texas 77701