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AUG 09 2002  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY

CV 00-05079 #00000074

UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

ROBERT LARSON'S CHRYSLER  
PLYMOUTH OF TACOMA, INC., d/b/a  
ROBERT LARSON AUTOMOTIVE GROUP  
and LARSON MOTOS, INC.,

Defendant.

NO. C00-5079 RJB

FIRST REPORT OF  
DECREE MONITOR

COMES NOW the Decree Monitor, pursuant to Paragraph 51 of the Consent Decree and Order, and submits this report regarding her review and evaluation of the Defendant's current employment practices and policies.

**BACKGROUND**

Pursuant to the terms of the Consent Decree, the Decree Monitor met with Beth Cross, Human Relations Manager for the Defendant on several occasions in 2001. Initially, the meetings were to allow the Monitor to gather information about the Company's policies and procedures as well as to determine the extent to which it had begun implementation of the terms of the Consent Decree. In addition, several complaints involving racial

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1 discrimination were raised in the early part of 2001 and additional meetings with Ms. Cross  
2 were held to address those complaints.

3 Since the Summer of 2001, contact with the Defendant was extremely limited  
4 because no complaints were filed and no issues needed addressing.

5  
6 **Assessment of Defendant's Compliance with Decree**

7 **GOALS MET**

8 By March 6, 2001<sup>1</sup>, the Defendant had posted the Notice Posted Pursuant to a  
9 Consent Decree (attached as Exhibit D to the Decree) in the business offices of each of its  
10 dealerships in Tacoma, Washington. On each subsequent visit to the company's  
11 headquarter location, the Decree has continued to be posted. Ms. Cross has represented that  
12 the Notice remains posted in each break room of each of the other dealerships as well.

13 The Defendant has maintained a discrimination and harassment policy (attached to  
14 the Consent Decree as Exhibit C) which applies to both racial and sexual discrimination and  
15 harassment. Ms. Cross personally insured that each current employee was given a copy of  
16 the policy and acknowledged receipt of the policy by signing and dating the  
17 acknowledgment receipt. In addition, she has implemented a policy under which all new  
18 employees learn of the policy as part of new hire orientation. The written policy is part of  
19 the Personnel Handbook which each new employee receives and for which each employee  
20 signs acknowledging that they have received and read the provisions of the Handbook. I  
21 have found Ms. Cross to be very conscientious about making sure the managers at each  
22 location comply with this provision.

23  
24 <sup>1</sup>  
25 This was the date the Decree Monitor first met Ms. Cross and senior management of the  
Defendant following the entry of the decree.

1 The Defendant has implemented a procedure for use by any employee who believes  
2 he or she has been the subject of racial discrimination or harassment. The complaint form  
3 was based on the Claim Form attached as Exhibit B to the Decree although it has been  
4 revised with input from the Monitor and the company's own legal counsel. There have been  
5 eight such complaints (seven individuals and two from one individual) since the  
6 involvement of the Decree Monitor; all but one arose in 2001.

7 Ms. Cross has provided me with her very detailed notes about each of the  
8 investigations she has conducted in response to any complaints of employees which were  
9 clearly of racial discrimination as well as complaints of employees in which race was not  
10 raised by the complaining party as the primary issue, but which Ms. Cross felt could later  
11 be seen to be of racial discrimination. She has been extremely prompt in her investigations,  
12 has obtained input from Decree Monitor on appropriate steps to take, and has recommended  
13 actions which the Monitor has found appropriate in each case.

14 As in any business, the Defendant has not always found that discrimination has been  
15 the motivating cause of the dispute *between the employee and the company*. But the  
16 investigations have been thorough, the company's position has been explained to the  
17 complaining party, the complaining party has been provided the name and means of contact  
18 for the Decree Monitor, and the Decree provisions have been met. In more cases than not,  
19 the Company has issued some sort of discipline toward the alleged offending party,  
20 including discharge of a manager.

21 Ms. Cross has met with the managers of each unit of each distributorship to educate  
22 them about racial discrimination, the company's Zero-Tolerance policy, and their duty to  
23 actively monitor their work areas to ensure employees' compliance with the company's  
24 racial discrimination and harassment policy. She created and distributed a Manager's  
25 Training Book which contains forms and written guidelines on hiring, interviewing,

1 counseling, progressive discipline, government forms, complaint forms, etc. She reviews  
2 this material with the managers at various times over the past year.

3 The company provided racial discrimination and harassment training in 2001 to all  
4 employees using training films and information provided by Ms. Cross. New employees  
5 receive training via films and Ms. Cross as part of their new hire orientation.

6 Job descriptions were finally completed in late 2001. The lack of job descriptions  
7 was a potential source of problems and/or issues regarding disagreements over what was or  
8 was not expected of employees in various positions. That problem has now been rectified.

9 **GOALS NOT MET**

10 The company has not met the requirements of the Decree to provide performance  
11 evaluations which include the handling of racial complaints and it has not, over the past 16  
12 months, completed performance evaluations on each of its managers. Supervisory salaries  
13 and bonuses have not been linked to evaluations which include the handling of racial  
14 complaints as such performances. The company has not included a "commitment to equal  
15 employment opportunity" as a criterion for qualification for supervisory positions.

16 **I recommend that Larsons management complete evaluations on each manager**  
17 **using the form submitted by Defendant to the Decree Monitor by 30 August at which**  
18 **time the Decree Monitory will review personnel files of all managers and selected other**  
19 **employees to confirm compliance.**

20 The company has not met the requirement of the Dccree to hold an annual training  
21 regarding discrimination and harassment for 2002, and none of the training done in 2001  
22 was conducted by an outside experienced racial discrimination and harassment educator or  
23 consultant.

24 **I recommend that Larsons meet this goal no later than September 30, 2002 and**  
25 **that the Decree Monitor be advised of the date(s) of the training in advance and**

1 **provided attendance sheets within five business days following the training.**

2 The company has also not met the requirement of the Decree to provide written  
3 guidelines from the ownership to the managers on how to handle discrimination complaints.  
4 Managers have not always advised of a complaint or consulted about the appropriate  
5 manner of handling the complaint. As a result, there has been some inconsistency in the  
6 handling of the claims **prior to** the time Ms. Cross has been advised of it.

7 **I recommend that the guidelines be completed by 30 September and that by 10**  
8 **October, the Defendant submit a copy of those guidelines to the Decree Monitor.**

9  
10 **SUMMARY**

11 While there were a number of complaints pending at the time of my appointment,  
12 these complaints all regarded conduct which had occurred prior to the time the Consent  
13 Decree was entered and before the company began to take steps to correct behavior and  
14 attitude. Most of the subsequent complaints have either lacked merit (including the one in  
15 which the employee took advantage of the opportunity to contact me directly) or were  
16 handled immediately by the company.

17 While the company has therefore made strides, I am most concerned about the lack  
18 of performance evaluations on employees and managers which would allow me to quantify  
19 to some extent the efforts taken by the company. That failure coupled with the apparent  
20 failure to link raises or bonuses with a commitment to equal opportunity or to use  
21 commitment as one criterion for promotion is therefore quite disturbing.

22 No company will ever be completely free of complaints of racial discrimination  
23 and/or harassment. However, I believe if Larsons complies with the recommendations I  
24 have set out in this report, it is well underway toward an atmosphere in its dealerships which  
25 honestly includes Zero-Tolerance of such activities.

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DATED this 8<sup>th</sup> day of August 2002.

LAW OFFICE OF MICHELE M. SALES



Michele M. Sales, WSBA 12412  
Decree Monitor