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EEOC v. The Club at Firestone

Judge John Antoon II

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EEOC v. The Club at Firestone

Keywords

EEOC, The Club at Firestone, C-Sonya, Concept 2000 Professional Employers, 6:03-CV-383ORL-28DAB, disparate treatment, termination, race, black, service, employment law, title VII

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

Case No. 6:03-CV-383-ORL-28DAB

v.

C-SONYA, INC. d/b/a THE CLUB and
CONCEPT 2000 PROFESSIONAL
EMPLOYERS, INC.,

Defendants.

CONSENT DECREE

1. This Consent Decree ("Decree") is made and entered into by and between Plaintiff, the U.S. Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC"), and Defendant, C-Sonya, Inc., d/b/a The Club (hereinafter referred to as "Defendant," or "The Club"). The Commission and Defendant The Club are collectively referred to herein as "the Parties."

2. On March 28, 2003, EEOC initiated this action against Defendant under Title VII of the Civil Rights Act of 1964, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race, and to provide appropriate relief to Lyscott Durant and Frank Mason, who were adversely affected by such practices. EEOC alleges that Defendants violated Title VII by terminating Lyscott Durant and Frank Mason from their positions as bartenders because of their race, Black.

3. Defendant denies the allegations brought by the EEOC and the allegations in the Complaint filed in this civil action and make no admission of liability by entering into this Consent Decree.

4. In the interest of resolving this matter to avoid the cost of litigation, and as a result of having engaged in comprehensive settlement negotiations, the parties have agreed that this action should be finally resolved by the entry of this Decree. This Decree is final and binding on the Parties, their successors and assigns.

5. The Parties agree that this Decree resolves all claims against Defendants alleged in EEOC Charge Number 150 A2 00963, EEOC Charge Number 150 A2 02234 and the Complaint filed in this action. The Parties further agree that this Decree does not resolve any Charges of Discrimination that may be pending with the EEOC other than the Charge referred to in this paragraph.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Decree, and based on the pleadings filed by the Parties, it is **ORDERED, ADJUDGED AND DECREED THAT:**

JURISDICTION

6. This Court has jurisdiction of the subject matter of this action and over the Parties for the purposes of entering and enforcing this Decree.

7. No party shall contest jurisdiction of this federal court to enforce this Decree its terms or the right of the EEOC to seek enforcement of the decree in the event Defendant breaches any of the terms of this Decree.

GENERAL INJUNCTIVE PROVISIONS

8. Defendant, its officers, managers, employees, agents and partners, are hereby enjoined from discriminating against employees in the terms and conditions of their employment because of their race in violation of Title VII of the Civil Rights Act of 1964, as amended.

9. Defendant, its officers, managers, agents and partners, agree that they will not discriminate against any employee in this matter who opposed any of Defendant's practices which the employee reasonably believed to be a violation of Title VII; who filed a charge of discrimination with the EEOC alleging violation(s) of such statute; or who cooperated with the EEOC in the investigation or prosecution of this case.

TRAINING

10. Defendant has established a written policy of compliance with Title VII which is attached hereto as Exhibit A. Defendant will distribute a complete copy of its policy to all current employees on or before July 30, 2004. Defendant further agrees that all new employees will be provided a copy of the policy within one week of employment.

11. In order to further ensure the effective implementation of Defendant's anti-discrimination policies, Defendant will conduct a four (4) hour annual training session throughout the duration of this Decree for all of its managers and supervisory personnel with specific emphasis on recognizing racial discrimination and the proper procedure to be followed if they become aware of racial discrimination in the workplace and/or if they receive a complaint of such discrimination. Defendant agrees to provide the EEOC with at least two (2) weeks notice before it conducts the training session(s), with the date(s) and location(s) of the training. The training shall be conducted by the Law Firm of Davis & Giardino, P.A., and the Defendant shall provide the names of the employees who attended the training to the EEOC within ten (10) business days after the training has been conducted.

12. Defendant agrees that the training described in paragraph 11 shall be conducted within ninety (90) days of the entry of this Decree, and, should thereafter take place by July 30th annually for the duration of this Decree. Defendant further agrees that the training described in paragraph 11 shall be given to all new managers and supervisors, who did not attend the annual training, within thirty (30) days of being placed in a management or supervisory position.

POSTING

13. The Defendant will post within thirty (30) days from the Court's execution of this Decree a laminated 8" ½ x 11" sized copy of the Notice attached hereto as Exhibit B. Said notice shall be posted for the duration of this Decree in conspicuous locations accessible to all employees (i.e. employee bulletin board or lunch room).

MONITORING

14. The Defendant will retain all employment records relating in any way to any complaint, allegation and investigation of race discrimination for the duration of this Decree and as required by federal law.

15. The Defendant will provide the EEOC with the name, address and phone number of any person who alleges that he/she has been subjected to racial discrimination during the preceding year. Defendant will also state its actions taken in response to each such allegation. The reports should be submitted every twelve (12) months with the first report to be submitted by July 30, 2005. The Defendant will provide upon request by the Commission any and all documentation associated with each such complaint, unless otherwise prohibited by law.

16. Defendant will certify to the EEOC every twelve (12) months throughout the duration of this Decree that it is in compliance with all aspects of this Decree. The first such certification will be due no later than May 30, 2005, and thereafter annually for the duration of this Decree. The Third and Final Report shall be due two (2) months prior to the expiration of this Consent Decree.

MONETARY RELIEF

17. Defendants shall pay a lump sum in the amount of \$80,000.00 to resolve this litigation. The monies shall be distributed as set forth below:

- a. \$ 3,500.00 shall be representative of lost wages for Mr. Durant, less amounts required to be withheld for federal, state, and local income taxes. Defendant will also issue an IRS W-2, and shall be responsible for the payment of the employer's share of any federal, state and local, income taxes, and social security withholdings.
- b. \$ 36,500.00 shall be representative of compensatory and punitive damages for Mr. Durant. Defendant will also issue an I.R.S. form 1099 to Mr. Durant substantiating same.
- c. \$ 3,500.00 shall be representative of lost wages for Mr. Manson, less amounts required to be withheld for federal, state, and local income taxes. Defendant will also issue an IRS W-2, and shall be responsible for the payment of the employer's share of any federal, state and local, income taxes, and social security withholdings.
- d. \$ 36,500.00 shall be representative of compensatory and punitive damages for Mr. Manson. Defendant will also issue an I.R.S. form 1099 to Mr. Manson substantiating same.
- e. All payments shall issue within thirty (30) calendar days from the Court's execution of this Decree, by certified mail to Mr. Durant and Mr. Manson at the addresses set forth in Exhibit C. Copies of payments shall be forwarded to the attention of John C. Weaver, Trial Attorney, U.S. Equal Employment Opportunity Commission, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

18. If Defendant fail to tender the above-mentioned payments as set forth in paragraph 16 above, then Defendant shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. Section 6621(b) until the same is paid, and bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Defendant.

ENFORCEMENT OF DECREE

19. The Commission shall have independent authority to seek the judicial enforcement of any aspect, term or provision of this Decree.

20. The Court will take whatever measures necessary to effectuate the terms of this Decree.

COSTS

21. Each Party shall bear its own costs and attorney fees associated with this litigation.


DURATION OF CONSENT DECREE

22. The duration of this Decree shall be three (3) years from the date of entry of the Decree.

SO ORDERED, ADJUDGED AND DECREED, this _____ day of June, 2004.


JOHN ANTOON II
UNITED STATES DISTRICT JUDGE

AGREED TO:
FOR THE PLAINTIFF,
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

by: 
Delner Franklin-Thomas
Regional Attorney
U.S. Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 530-6001
Facsimile: (305) 536-4494

Date: July 14, 2004

AGREED TO:
FOR THE DEFENDANT
C-SONYA, INC., d/b/a/ THE CLUB

by: 
RICHARD A. GIARDINO, ESQ.
DAVIS & GIARDINO, P.A.
201 Arkona Court
West Palm Beach, Florida 33401
Telephone: (561) 514-0305
Facsimile: (561) 514-0309

Date: 5/28/04

EXHIBIT A

POLICY OF EQUAL EMPLOYMENT OPPORTUNITY

In order to provide equal employment and advancement opportunities to all individuals, employment decisions will be based on merit, qualifications, and abilities. The Club does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability, or any other characteristics protected by law.

Additionally, The Club is committed to providing a work environment that is free to all forms of discrimination and conduct that can be considered harassing, coercive, or disruptive, including sexual harassment. Actions, words, jokes, or comments based on an individuals sex, race, color, national origin, age, religion, disability, sexual orientation, or any other legally protected characteristics will not be tolerated. Sexual harassment is defined as unwanted sexual advances, or visual, verbal, or physical conduct of a sexual nature. This definition includes many forms of offensive behavior and includes gender based harassment for a person of the same sex as the harasser. If you experience or witness any form of discrimination or harassment in the work place, report it to management immediately. Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

EXHIBIT B

**NOTICE TO ALL EMPLOYEES
POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND
THE CLUB AT FIRESTONE**

This notice is being posted pursuant to a Consent Decree entered by the Court in EEOC vs. C-Sonya, Inc., d/b/a The Club, CASE NO. 6:03-CV-383-ORL-28DAB. The Club at Firestone ("The Club") has agreed that they will not discriminate against employees on the basis of race in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Title VII protects individuals from employment discrimination because of their race, religion, color, national origin, or sex. The Club and Concept 2000 will not condone employment discrimination of any kind as set forth in federal anti-discrimination laws.

Furthermore, The Club assures its employees that it supports Title VII and will not take any action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with the EEOC.

Appropriate corrective action, up to and including termination, shall be taken against any employee (including management personnel) found to violate the policies regarding discrimination, based upon the circumstances involved.

Employees or applicants for employment who have questions about their rights under Title VII or any other federal anti-discrimination law may telephone the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000.

Signed this ____ day of _____, 2004.

President, CEO

DO NOT REMOVE BEFORE _____ 2007.

EXHIBIT C

Lyscott Durant
5050 South Duneville
#263, Building 14
Las Vegas, Nevada 89118

Frank Manson, JR.
595 West Church Street, Apt. #807
Orlando, FL 32805