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## Equal Employment Opportunity Commission v. Continental Conveyor and Equipment Company

Judge Danny C. Reeves

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## Equal Employment Opportunity Commission v. Continental Conveyor and Equipment Company

### Keywords

Equal Employment Opportunity Commission, E.E.O.C., EEOC, Continental Conveyor and Equipment Company, 7:03-cv-00295-DCR, 7:03-cv-00295-GFVT, Sex, female, Hiring, Disparate Treatment, Employment Law, Title VII, Consent Decree, Manufacturing

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
PIKESVILLE DIVISION

Eastern District of Kentucky  
**FILED**

OCT 13 2004

AT LONDON  
LESLIE G. WHITMER  
CLERK U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CONTINENTAL CONVEYOR AND )  
EQUIPMENT COMPANY, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**CIVIL ACTION NO.**  
7:03-CV-295-DCR

**CONSENT DECREE**

The United States Equal Employment Opportunity Commission (the "Commission") commenced this action against Continental Conveyor and Equipment Company, P.O. Box 189, Route 460, Salyersville, Kentucky 41465 ("Continental") pursuant to Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 ("Title VII") to correct Continental's alleged unlawful employment practices on the basis of sex, and to provide appropriate relief to Cynthia Horne ("Horne"), and other similarly situated female applicants for hire, later identified as Cheryl Collinsworth and Sandy Russell. This action was instituted and authorized by Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The Commission and Continental stipulate to the Court's jurisdiction over the parties. Further, the Commission and Continental desire to resolve Civil Action No.7:03-CV-295-DCR without the burden and expense of further litigation. As a result, and based on the pleadings and the record as a whole, the Court finds that: [i] the Court has jurisdiction over the

parties and the subject matter of this action; [ii] the purpose and provisions of Title VII will be promoted and effectuated by the entry of this Decree; and [iii] this Decree resolves all the matters in controversy between the parties as provided in paragraphs 1 through 15 below.

**IT IS THEREFORE ADJUDGED, ORDERED AND DECREED** as follows:

1. Continental denies any wrongdoing on the basis of the allegations set forth in the underlying charge of discrimination filed with the Commission or on the basis of the allegations set forth in the Commission's Complaint. This Consent Decree, being entered with the consent of the Commission and Continental, shall not constitute an admission of wrongdoing or an adjudication or finding on the merits of this case against Continental.

2. Continental agrees that it and all of its officers, directors, employees, agents, assigns and/or successors will not discriminate against any employee or applicant for employment on the basis of their sex and agree to be bound by the terms of this Decree.

3. Continental agrees that there will be no discrimination or retaliation of any kind against any person because of opposition to any practice made unlawful under Title VII, or because of the filing of a charge, the giving of testimony, assistance, or participation in any manner in an investigation, proceeding or hearing under Title VII.

4. Continental shall pay the total sum of Fifty Three Dollars (\$53,000.00) to Cynthia Horne, Cheryl Collingsworth, and Sandy Russell, in the following amounts.

**Cynthia Horne - (\$21,000.00)**

**Cheryl Collingsworth - (\$16,000.00)**

**Sandy Russell - (\$16,000.00)**

These payments shall be less applicable withholding for employment-related taxes and FICA contributions. Continental shall effect payment by issuing checks by certified mail in the amounts specified and to the addresses identified above within 10 business days of its receipt of the fully-executed Consent Decree indicating entry by the Court.

5. Continental shall mail a copy of the check and proof of its delivery (assigned certified mail receipt) to Laurie A. Young (or her successor), Regional Attorney, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio St., Suite 1900, Indianapolis, Indiana 46204-4203, within thirty (30) days of mailing.

6. The term of this Decree shall be for twenty four months (24) from the date of entry of this Decree.

7. Within ninety (90) days of the date of entry of this Decree, Continental shall provide a training program to all of its supervisory and/or management employees. This training program shall include an explanation of the requirements of Title VII's prohibition of sex discrimination, including Title VII's non-retaliation provisions. Thirty (30) days before the training, the Defendant shall provide: [i] notice to the Commission of the date, time, and place of the training; [ii] shall send to the Commission a copy of the training program and all written materials, if any, to be used; and [iii] shall provide the Commission with a roster of all employees who will receive the training. The Commission may provide reasonable input on the content of the training but shall do so no later than ten (10) days prior to the training.

Upon completion of the training, Defendant shall certify to the Commission the specific training that was undertaken and shall provide the Commission with a roster of all employees

who received the training. All reports shall be sent to the attention of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio Street, Suite 1900, Indianapolis, IN 46204-4203.

8. Continental agrees that, in the event it determines to solicit or accept applications for employment from outside its workforce for shop floor hourly positions during the term of this Decree, it will make good faith efforts to recruit and hire qualified female applicants for such shop floor hourly positions by agreeing to provide written notice to all employees of its efforts to increase female and minority applicants and hires on each hiring occasion. Continental further agrees to specifically expand its recruitment efforts of female and minority applicants to include notifying by mail the following sources at least five (5) days prior to acceptance of applications at the plant:

**Magoffin County Vocational School, 201 Hornet Drive, Salyersville, KY 41465**

**Mayo Vocational and Technical College, 513 Third Street, Paintsville, KY 41240**

**The Kentucky State Department of Employment Services, Route 460, P.O. Box 358, Salyersville, Kentucky 41465**

Continental agrees to notify the Commission of any solicitation or acceptance of applications from outside its workforce for such shop floor hourly positions during the pendency of this Consent Decree and of its compliance in notifying the above identified sources for female and minority applicants.

9. Continental agrees to submit periodic reports to the Commission detailing its compliance with this Decree. Continental agrees to submit four (4) semi-annual reports during the term of this Decree. The first report shall be due six (6) months after the execution of this decree, and the subsequent reports shall be mailed to the Commission no later than the final day

of the month of each sixth month after the preceding report and continuing throughout the term of years covered by the Decree.

a. Each semi-annual report shall include the following information for the six (6) month period preceding the report: [i] a report listing all applications for employment accepted from outside Continental's workforce for shop floor hourly positions with Continental, annotated by name and sex; and [ii] a report listing all employees hired into such positions with Continental, annotated by name, sex, position, date of hire, and whether full time or part time.

b. All reports shall be directed to Laurie A. Young (or her successor), Regional Attorney, at the address specified in paragraph 5.

10. Continental shall post the Notice attached hereto as Appendix A at its Salyersville plant. The Notice shall be placed on the employee bulletin board located at the entrance to the employee lunchroom. Continental agrees to notify the Commission that it has complied with the posting of the Notice within twenty (20) days of the effective date of this Consent Decree.

11. In the event that the EEOC determines that a violation of this Decree has occurred, it will, prior to exercising any remedy provided by law, provide written notice to Continental specifically identifying the alleged violation(s). Continental will have thirty (30) days in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or any such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation before the Commission exercises any remedy provided by law.

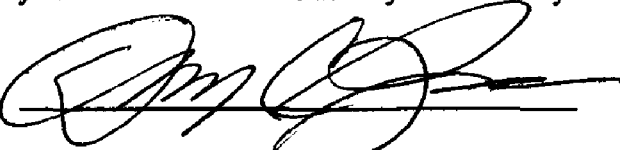
12. The Commission and Continental shall each bear its own costs and attorney fees.

13. The EEOC, Cynthia Horne, Cheryl Collinsworth and Sandy Russell shall fully and forever release and discharge the Defendant, their successors and assigns, including their

present and former directors, officers, employees, and agents, from any claim or obligation based on alleged sex discrimination in hiring in violation of Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, which was or could have been raised in Civil Action No. 7:03-CV-295-DCR, provided that Continental complies with all provisions of this Decree.

14. Continental, Ms. Horne, Ms. Russell and Ms. Collinsworth have entered into a Confidentiality Agreement which is attached as Appendix B. This Confidentiality Agreement is incorporated by reference into this Consent Decree. Nothing herein shall be construed to indicate that the EEOC is a party to the Confidentiality Agreement.

15. **RETENTION OF JURISDICTION BY COURT:** The Court will retain jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

October 13, 2004   
Date Judge, United States District Court

This Consent Decree is approved and consented to by the following authorized representatives of the parties:

Cynthia Horne  
Cynthia Horne

9-30-04  
Date

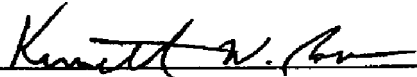
Cheryl Collinsworth  
Cheryl Collinsworth

9-30-04  
Date

Sandy Russell  
Sandy Russell

9-30-04  
Date



  
\_\_\_\_\_

Kenneth W. Brown  
Senior Trial Attorney  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

Louisville Area Office, Suite 268  
Dr. Martin Luther King Jr. Place  
Louisville, Kentucky 40202-2285  
Tel. (502) 582-5440  
Fax (502) 582-5437

10/4/04  
\_\_\_\_\_

Date

  
\_\_\_\_\_

Signature of Authorized Representative/Counsel  
for the Continental Conveyor and Equipment  
Company

10/5/04  
\_\_\_\_\_

Date

Copies to:

Kenneth W. Brown  
Senior Trial Attorney  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Louisville Area Office  
Suite 268  
600 Dr. Martin Luther King, Jr. Place  
Louisville, KY 40202-2285  
Counsel for Plaintiff

James D. Cockrum  
Frost Brown Todd LLC  
Attorneys at Law  
400 West Market Street  
32<sup>nd</sup> Floor  
Louisville, KY 40202-3363  
Counsel for Defendant

# EMPLOYEE NOTICE

**Posted Pursuant to an Agreement with the  
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Louisville Area Office**

## **NOTICE OF NON-DISCRIMINATION POLICY**

This Notice is being distributed and posted by agreement between Continental Conveyor & Equipment Company and the United States Equal Employment Opportunity Commission (EEOC).

Federal law requires that there be no discrimination nor harassment against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (over 40) or disability.

Federal law also prohibits employers from discriminating against employees or applicants in all aspects of employment, including, but not limited to, hiring, promotion, discharge, pay, job training and fringe benefits.

Continental Conveyor & Equipment Company supports and will comply with such Federal law in all respects and will not take any actions against employees because they have filed a charge of discrimination with the EEOC, reported an alleged violation under the law to the EEOC, or have given testimony, assisted or participated in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

Any candidate for employment or employee who believes they are a victim of illegal employment discrimination may contact the U. S. Equal Employment Opportunity Commission for the purpose of filing a charge of employment discrimination.

**Questions concerning this notice may be addressed to:  
Equal Employment Opportunity Commission  
101 W. Ohio St., Suite 1900  
Indianapolis, Indiana 46204-4203  
Telephone: (317) 226-7212  
EEOC 800 # 1-800-669-4000  
TDD (317) 226-4162**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE DIVISION  
CIVIL ACTION NO. 7:03-CV-295 (DCR)

Eastern District of Kentucky  
**FILED**  
OCT 12 2004  
AT PIKEVILLE  
LESLIE G. WHITMER  
CLERK, U.S. DISTRICT COURT  
PLAINTIFF

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

v.

**CONTINENTAL CONVEYOR &  
EQUIPMENT COMPANY**

**DEFENDANT**

**CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement is entered into by and between Cynthia Horne (Ms. Horne"), Cheryl Collinsworth ("Ms. Collinsworth"), Sandy Russell ("Ms. Russell") and Defendant Continental Conveyor and Equipment Company ("the Company") this \_\_\_\_ day of September 2004.

WHEREAS, Ms. Horne filed an administrative charge with the EEOC alleging discrimination in employment against the Company; and

WHEREAS, following its investigation of Ms. Horne's charge, the EEOC pursued a lawsuit against the Company alleging that the Company failed to hire Ms. Horne, Ms. Collinsworth and Ms. Russell (collectively, "the Class") because of their sex; and

WHEREAS, the Company has denied the claims contained in the lawsuit; and

WHEREAS, the parties have agreed to resolve all claims contained in the lawsuit; and

WHEREAS, the Company believes that its interests will be damaged in the event that the terms of the settlement become known by persons other than the EEOC and/or the Class; and

WHEREAS, the Class has agreed to maintain confidentiality as to the terms of settlement and desire to enter into this Agreement in order to induce the Company to resolve the lawsuit rather than for the parties to go forward with their discovery efforts or other attempts to prosecute and/or defeat the claims contained in the lawsuit; and

WHEREAS, the agreement as to confidentiality constitutes significant consideration to the Company and its agreement to resolve the claims in the lawsuit;

NOW THEREFORE, Ms. Horne, Ms. Collinsworth and Ms. Russell agree as follows:

1. Confidentiality. Ms. Horne, Ms. Collinsworth and Ms. Russell agree that the terms (individually or as a whole) of their settlement with the Company, as well as the offers, comments, events and results occurring during the negotiations leading to the settlement, are, shall be and shall remain strictly confidential, and that they shall not, individually or collectively, divulge, directly or indirectly, explicitly or implicitly, the terms of their settlement or the offers, comments, events and results occurring during the negotiations leading to their settlement, to any person or entity other than their respective spouse, tax advisor(s) or attorney(s), or if necessary, a Court or a Federal, state or local taxing authority, or as otherwise legally compelled to divulge such information by force or application of law. In the event of disclosure to a spouse, tax advisor(s) or attorney(s), the Class agree to inform such person(s) of the terms of this Paragraph and to take all necessary actions to obtain such person(s) agreement to comply with the terms of this Paragraph so as to protect and ensure the confidentiality called for by this Agreement.


2. Permissible Responses to Inquiries. In the event that any class member(s) hereafter receive any inquiry into the status or result of the claims against the Company, from any person or entity other than a Court or a Federal, state or local taxing authority, they agree to limit the

response to, in effect and without revealing the fact of monetary payments, if any, made by the Company, a statement that after discussions between the parties and the Court, the parties agreed to a settlement. In the event any class member(s) receive any inquiry whether the Company paid any monetary sum as a part of the settlement, they agree to limit their response to, in effect, a statement that they are bound by the terms of their agreement not to reveal the terms of their settlement.

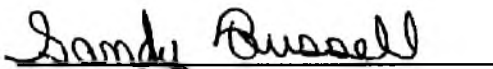
3. Incorporation By and Into Consent Decree. This Confidentiality Agreement shall be and is hereby incorporated by and into the Consent Decree to be entered into the record by the Court as the final resolution of the claims in the lawsuit. In the event of any breach of the terms of this Confidentiality Agreement, the party alleged to be in breach shall be subject to the contempt powers of the Court in the same manner and to the same extent as available to the Court in other instances of violations of its Orders.

  
Cynthia Horne, Plaintiff

9-25-04  
Date

  
Cheryl Collinsworth, Plaintiff

9-25-04  
Date

  
Sandy Russell, Plaintiff

9-25-04  
Date