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## Equal Employment Opportunity Commission v. Cudd Energy Services

Judge Lawrence L. Piersol

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## Equal Employment Opportunity Commission v. Cudd Energy Services

### Keywords

EEOC, Cudd Energy Services, 4:15-cv-00037-LLP-ARS, Consent Decree, Hostile Work Environment, Retaliation, Termination, Race, Asian, Employment Law, Title VII

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	Civil Action No. 4:15-cv-00037
	)	(LLP-ARS)
	)	
v.	)	
	)	
CUDD ENERGY SERVICES,	)	<b>CONSENT DECREE</b>
	)	
Defendant.	)	
	)	

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**INTRODUCTION**

Plaintiff Equal Employment Opportunity Commission (“EEOC”) has filed a Complaint *EEOC v. Cudd Energy Services*, Civil No. 4:15-cv-00037 (RRE-ARS), alleging that Defendant Cudd Energy Services (“Defendant” or “Cudd Energy”) discriminated against Alexis Villanueva when it subjected him to harassment based on his race, Asian, and terminated his employment based on his race, and in retaliation for his complaints about the racial harassment in violation of Section 703(a), 42 U.S.C. §2000e-2(a) and 704(a), 42 U.S.C. §2000e-3(a). The Court has granted summary judgment to Cudd Energy on the claims related to race discrimination and retaliation. Cudd Energy has denied and continues to deny all claims and believes that at all times it acted in compliance with applicable law.

In reaching this Consent Decree, the EEOC and Defendant, acting by and through their counsel, engaged in negotiations and an exchange of information. The parties have

obtained sufficient information to assess reliably the relative merits of the claims and defenses. Throughout this process, the EEOC and Defendant were represented by counsel knowledgeable in this area of the law.

THEREFORE, upon the consent of the parties, and upon review by the Court of these terms, it is ORDERED, ADJUDGED, and DECREED that the following terms are approved as set forth herein:

**I. JURISDICTION**

A. This Court has jurisdiction over the parties and the subject matter of this action.

B. This Court shall retain jurisdiction of this action during the duration of this Decree for the purposes of entering all orders, judgments, and decrees that may be necessary to implement the relief and enforcing compliance with the terms provided herein.

**II. FINDINGS**

A. The purposes of Title VII and the public interest will be furthered by the entry of this Decree.

B. The terms of this Decree constitute a fair and equitable settlement of this action.

**III. SCOPE**

The EEOC agrees that it will not bring any further claim against Defendant based on the charge of discrimination filed by Alexis Villanueva underlying this lawsuit and that this charge will not be otherwise used by the EEOC. By entering into this Decree the

parties do not intend to resolve any other charges of discrimination currently pending before the EEOC other than the charge that created the procedural foundation for the Complaint in this case, and the EEOC does not waive or in any manner limit its right to process or seek relief in any other charge or investigation.

#### **IV. DEFINITIONS**

As used herein, "Cudd Energy" shall refer to Cudd Energy and its officers, agents, managers and supervisory employees assigned to Defendant's business operations located in or in close proximity to Williston, North Dakota. All relief referred to in this Consent Decree is limited to Cudd Energy's business operations in or in close proximity to Williston, North Dakota.

#### **V. TERM**

The Term of this Decree and all obligations hereunder shall be three (3) years from the Effective Date hereof. The Effective Date hereof shall be the date that the District Court approves this Consent Decree.

#### **VI. INJUNCTION**

Cudd Energy shall not engage in any form of racial harassment made unlawful under Title VII.

#### **VII. EMPLOYMENT REFERENCE**

In keeping with its practices, Cudd Energy will provide only a neutral employment reference, including dates of employment and position held, for Alexis Villanueva.

#### **VIII. POLICIES AND TRAINING**

**A.** Within sixty (60) days after the Effective Date hereof, Cudd Energy will

review its workplace policies relating to racial harassment and revise any policies inconsistent with Title VII.

**B.** On an annual basis for the term of this Consent Decree, Cudd Energy will train all of its management personnel in Williston, North Dakota on Title VII's provisions prohibiting racial harassment. The training may also include information about other laws prohibiting discrimination and harassment in the workplace and about Defendant's equal employment opportunity policies. The training must be provided by a live, in-person trainer. An agenda for the training, training materials, and resumes relating to the presenters will be provided to the EEOC at least 30 days before each training session. The first annual training shall total no less than one hour. Each subsequent training shall total no less than one hour, which may be presented in a one hour session, or as two thirty-minute training sessions. The EEOC shall be notified of the time and date of each scheduled training.

**C.** On an annual basis for the term of this Consent Decree, Cudd Energy will train all of its non-management employees in Williston, North Dakota on their rights as employees to be free from racial harassment under Title VII. Such training shall include Defendant's equal employment opportunity policies and the process for making complaints about harassment internally, and advise them of their right to file charges of discrimination with the EEOC or other fair employment practices agencies. An agenda for the training, training materials, and resumes relating to the presenters, will be provided to the EEOC at least 30 days before each training session.

**D.** At the beginning of each training session held under this Decree, the

Regional Manager or District Manager will introduce the trainer and affirm that Defendant takes its obligations under all EEO laws and prohibitions seriously.

**IX. POSTING TO EMPLOYEES**

A. Cudd Energy will post the Notice attached as **Exhibit A** at its facility in Williston, ND. **Exhibit A** will be posted in locations where notices for employees are generally posted, and shall remain in place for the term of this Decree. Defendant shall take steps to ensure that the posted Notice remains unobscured and, during the term of this Decree, will replace any damaged or defaced Notices.

**IX. REPORTING**

A. On an annual basis during the term of this Decree, Cudd Energy shall submit to the EEOC a certification of compliance with this Decree, including that it has reviewed its workplace policies regarding racial harassment, revised any racial harassment policies inconsistent with Title VII, and it has conducted the training of its personnel as required by this Decree. After the first report to the EEOC, Defendant's subsequent annual reports shall document any further revisions or changes to its workplace policies regarding racial harassment.

B. Cudd Energy shall provide the EEOC with a list of all complaints of racial harassment made during that period at or in close proximity to its operations in Williston, ND with a description of the allegation made, including: (1) the name of the complaining party; (2) a description of the facts of the complaint; and (3) a description of Defendant's actions in response to the complaint. Upon the EEOC's request, Defendant shall make the underlying documents or records available to the EEOC within ten days of request.

## **XI. MONETARY REMEDY**

**A.** Cudd Energy agrees to pay \$39,900.00 to Alexis Villanueva in resolution of this matter within ten (10) days after the Effective Date hereof so long as it has received the release attached as Exhibit B at or before that time.

**B.** Villanueva's execution of the release attached as **Exhibit B** will be a condition precedent of his receipt of relief under this Decree.

**C.** Defendant will provide Villanueva with a 1099 tax form reflecting the payment of \$39,900.00 for Villanueva's compensatory damages. Defendant will provide the EEOC with a copy of the check and any related correspondence provided to Villanueva.

## **XII. NOTIFICATION OF SUCCESSORS**

The terms of this Consent Decree shall be binding upon the present and future directors, officers, managers, agents, successors and assigns of Cudd Energy. Defendant and any successors of it shall provide a copy of this Decree to any organization or person who proposes to merge with it, or any successor, prior to the effectiveness of any such asset sale, acquisition or merger. This paragraph shall not be deemed to limit any remedies available in the event of any finding by the Court regarding violation of this Decree.

## **XIII. DISPUTE RESOLUTION**

The EEOC will give Cudd Energy ten (10) business days notice of any alleged noncompliance with the terms of the Decree before initiating enforcement actions under this Decree. If Defendant has not remedied the alleged non-compliance or has not



satisfied the EEOC that it has complied with the Decree at the end of that period, the EEOC may apply to the Court for appropriate relief.

#### **XIV. COMPLIANCE REVIEW**

The EEOC may review Cudd Energy's compliance with the aforementioned provisions of this Decree during the term of this Decree upon written notice to Defendant's attorney of record at least ten (10) business days in advance of any inspection of Defendant's documents or premises. The notice shall state the basis upon which EEOC believes that there is non-compliance requiring such review. If Defendant believes that no review is warranted, Defendant shall inform the EEOC of the reasons, and the parties agree to work cooperatively to resolve any disagreement. Upon such notice, Defendant will allow representatives of the EEOC to review its compliance with this Decree by inspecting and photocopying relevant, non-privileged documents and records, interviewing employees and management officials on its premises, and inspecting its premises. If the parties do not agree, EEOC may ask the Court to allow such review.

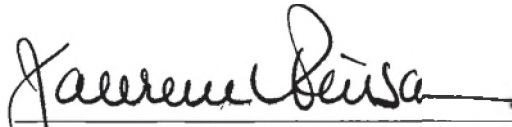
#### **XV. COSTS AND ATTORNEYS FEES**

Each party shall bear that party's own costs and attorney's fees.

**By the Court:**

**IT IS SO ORDERED.**

Dated: July 19, 2018

  
\_\_\_\_\_  
Lawrence L. Piersol  
United States District Judge

**[Cudd Energy Letterhead]**

**EXHIBIT A**

**NOTICE TO EMPLOYEES**

This Notice is posted pursuant to a Consent Decree resolving a lawsuit with the United States Equal Employment Opportunity Commission ("EEOC"). The EEOC brought suit against Cudd Energy Services, alleging that it discriminated against a former employee by subjecting him to racial harassment, race discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964. The Court has granted summary judgment to Cudd Energy on the claims related to termination and retaliation. Cudd Energy has denied and continues to deny all claims and believes that at all times it acted in compliance with applicable law.

The Consent Decree resolving this lawsuit provides a monetary settlement to Alexis Villanueva, requires training for Cudd Energy's personnel based in or in close proximity to Williston, North Dakota on Federal laws prohibiting racial harassment, and mandates regular reporting to the EEOC.

If you have a question about the Consent Decree, you should contact the Minneapolis office of the EEOC at 612-335-4040. You can find out more about the EEOC and the laws that it enforces by going to <http://www.eeoc.gov><http://www.eeoc.gov><http://www.eeoc.gov>.

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Regional Manager  
Cudd Energy Services

**EXHIBIT B**

**RELEASE AND WAIVER**

In consideration for \$39,900.00 paid by Cudd Energy Services, in connection with the resolution of *EEOC v. Cudd Energy Services*, Civil No. 4:15-cv-00037 (LLP-ARS), I waive the right to recover for any claims of harassment, discrimination or retaliation under Title VII of the Civil Rights Act of 1964 that were the subject of this EEOC lawsuit.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Alexis Villanueva