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Equal Employment Opportunity Commission, and Peter Servidio, Plaintiffs, v. Labranche & Co., Inc., Defendant.

Judge Shira A. Scheindlin

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Equal Employment Opportunity Commission, and Peter Servidio, Plaintiffs, v. Labranche & Co., Inc., Defendant.

Keywords

Equal Employment Opportunity Commission, Peter Servidio, Labranche & Co Inc., 05-CV-8304(SAS), Consent decree / Settlement, Disparate Treatment, Hostile Work Environment, Retaliation, Termination, Other mental impairment disability, Service, Employment Law, ADA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

and

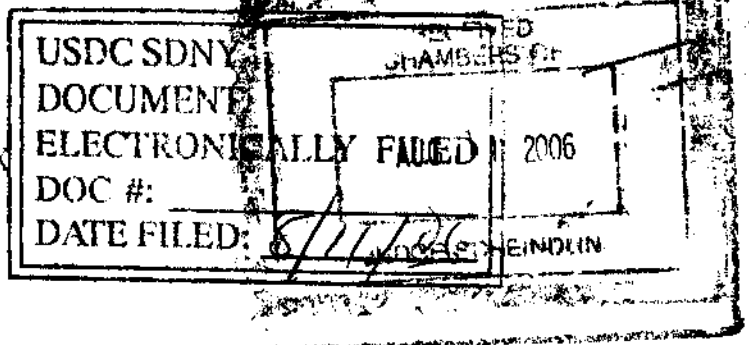
PETER SERVIDIO

Plaintiffs,

v.

LABRANCHE & CO., INC.

Defendant.



Civil Action No.
05-CV-8304(SAS)

CONSENT DECREE

-----X

This action was initiated on September 27, 2005 by Plaintiff, the Equal Employment Opportunity Commission (hereinafter the "EEOC"), an agency of the United States Government, alleging that LaBranche & Co Inc. (hereinafter "LaBranche") discriminated against claimant Peter Servidio ("Servidio") in violation of Title I of the Americans with Disabilities Act of 1990 by engaging in harassment toward him on the basis of his disability, retaliating against him and constructively discharging him from his employment. The Complaint alleges that LaBranche created a hostile work environment for Servidio on the basis of his mental disability by permitting him to be subjected to frequent, hostile comments about his disability by his supervisors and co-workers. The Complaint also alleges that LaBranche retaliated against Servidio after he complained of the harassment by threatening to ruin his career and constructively discharging him from his employment. LaBranche denies that Mr. Servidio was subjected to a hostile work environment during his employment. LaBranche further denies that it retaliated against

Mr. Servidio or subjected him to constructive discharge after Mr. Servidio complained about alleged harassment.

EEOC and LaBranche (hereinafter “the parties”) desire to settle this action, and therefore do hereby stipulate and consent to the entry of this Decree as final and binding between the signatories hereto, and their successors or assigns. The parties have agreed that this Decree may be entered into without Findings of Fact and Conclusions of Law having been made and entered by the Court.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and it is therefore ORDERED, ADJUDGED AND DECREED that:

1. This Decree resolves all issues raised in EEOC Charge Number 160-2004-01358 and in EEOC’s Complaint in this case.
2. The parties agree and the Court finds that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative prerequisites have been met. No party shall contest the validity of this Decree, or the jurisdiction of the federal district court to enforce this Decree and its terms.
3. This Decree is being issued with the consent of the parties and does not constitute an adjudication or finding by this Court on the merits of the allegations of the Complaint.

4. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that LaBranche fails to perform the promises and representations contained herein.

5. LaBranche, its managers, officers, agents, successors, and assigns, are enjoined from discrimination against any employee because of that individual's disability, harassment of any employee because of his or her status as a disabled employee, or retaliation against any employee because of her or his assertion of rights under the ADA. LaBranche and its agents further are enjoined from retaliation against any individual who has participated in this matter in any way.

A. PAYMENT

6. Within ten (10) business days of the Court's entry of this Consent Decree, LaBranche shall make payment to Servidio in the total amount of five hundred thousand dollars (\$500,000), payment to be made in the manner specified in the Settlement Agreement between plaintiff-intervenor Peter Servidio and LaBranche entered into concurrently with the parties' execution of this Consent Decree.

7. LaBranche shall send copies of the checks comprising the payment described in Paragraph 6 above (and applicable 1099s) to Michael Ranis, New York District Office of the EEOC, 33 Whitehall Street, 5th Floor, New York, New York 10004, at the time it sends same to Servidio.

B. NOTICE AND POSTING

8. Within ten (10) business days of the Court's entry of this Consent Decree, LaBranche shall post a copy of a remedial notice, printed on LaBranche letterhead and signed by its Executive Vice President, Alfred Hayward, in conspicuous places where employee notices are posted. A copy of the remedial notice is attached hereto as Exhibit A.

C. WRITTEN POLICIES AND PROCEDURES

9. Upon the Court's entry of this Consent Decree, LaBranche will adopt the modifications to its written policies and procedures prohibiting employment discrimination, including disability discrimination, harassment and discrimination on the basis of race, national origin, and religion, and retaliation, which are attached as Exhibit B.

10. Upon the Court's entry of this Consent Decree, LaBranche will adopt the modifications to its written complaint procedures for employees who believe that they have been discriminated against, harassed, or retaliated against, which are attached as Exhibit B. As part of these complaint procedures, employees of LaBranche will be able to report incidents of discrimination, harassment or retaliation to their supervisor or manager at LaBranche, to LaBranche's Human Resources Manager, or to a toll-free number for reporting incidents of discrimination, harassment or retaliation. In addition, as part of these complaint procedures, it shall be the duty of any LaBranche manager to promptly report any allegations of or suspected incidents of discrimination, harassment or retaliation to the LaBranche Human Resources Office.

11. Upon the Court's entry of this Consent Decree, LaBranche will continue to maintain a toll-free telephone number for reporting incidents of discrimination, harassment, or retaliation. During the hours of 9:30 a.m. to 5:00 p.m., Monday through Friday, the toll-free telephone number will enable employees to report incidents of discrimination, harassment or retaliation to personnel who are trained to investigate such incidents. During all other hours, this telephone line will have an outgoing recorded message containing information about the complaint reporting procedure and a listing of staffed hours, and will accept recorded messages and complaints.

12. Upon the Court's entry of this Consent Decree, LaBranche will adopt the modifications to its written procedures for the investigation and handling of reported allegations of or suspected incidents of discrimination, harassment or retaliation, and a disciplinary policy for employees who engage in discriminatory, harassing or retaliatory behavior; such procedures and policy are attached as Exhibit C.

13. Defendant has distributed a copy of the written policies and procedures described in paragraphs 9, 10, and 12 above to all employees, and defendant agrees to distribute copies of these written policies and procedures to all future employees at or near the time of commencement of their employment.

D. TRAINING

14. LaBranche shall provide no fewer than two hours training in Federal laws prohibiting discrimination in employment for all employees, including all management and supervisory employees at LaBranche. The training shall include disability discrimination and harassment as a topic, but will also consist of anti-discrimination training about other areas of prohibited discrimination, including discrimination on the

basis of race, sex, national origin, and religion, harassment in general, and retaliation. LaBranche shall provide the curriculum for the training to the EEOC at least 30 days prior to the day upon which the training is given, and such curriculum must meet the approval of the EEOC. The seminar will be conducted no later than six months after the entry of this Consent Decree and must be repeated again for the same group of employees no later than two years after the seminar is provided.

15. In addition to attending the training set forth in Paragraph 14 above, all LaBranche Managing Directors, Floor Captains, Post Managers and Supervising Trading Assistants shall be required to attend a training program, no less than two hours in duration, regarding harassment on the basis of disability, as well as on the bases of sex, race, national origin and religion. The training will be developed by an outside consultant and employ role plays, examples of discriminatory attitudes and positions, and sensitivity training, with the consultation of defendant's counsel and the EEOC. The training shall discuss the importance of maintaining respect for other individuals—even when working in a stressful environment, such as the trading floor. The training should include topics regarding disability harassment, such as unwelcome remarks, making employees uncomfortable with remarks about their disabilities, and harassment on the basis of disability. It should define what makes comments “unwelcome,” and how that is determined by the person being addressed, and not by the speaker making the comment. The training should also include a discussion of stereotyped assumptions regarding disabled individuals and how to treat such individuals. LaBranche shall provide the curriculum for the training to the EEOC at least 30 days prior to the day upon which the training is given, and such curriculum must meet the approval of the EEOC. The training will be conducted no later than six months after the entry of this Consent Decree, and

must be repeated again for the same group of employees no later than two years after the training occurs.

16. LaBranche will train all Human Resource personnel, all in-house legal counsel, and its Regulatory Officer, on how to conduct investigations of complaints of discrimination and harassment, including harassment on the basis of disability. This training, no less than two hours in duration, will emphasize how to conduct such an investigation without permitting retaliation against the complainant. LaBranche shall provide the curriculum for the training to the EEOC at least 30 days prior to the day upon which the training is given, and such curriculum must meet the approval of the EEOC. The training is to be completed no later than six months after the entry of this Decree, and must be repeated again for the same group of employees no later than two years after the training occurs.

E. MONITORING AND REPORTING

17. The EEOC has the right to monitor and review compliance with this Consent Decree. Accordingly:

18. Within (60) sixty days of the Court's entry of this Consent Decree, LaBranche shall appoint an Equal Employment Office Coordinator who shall be responsible for investigating discrimination complaints. That officer is responsible for fully investigating any such complaints about discrimination on the basis of disability, race, national origin, sex, and religion, and assuring that such is done in a manner that does not retaliate against the individual who made the complaint in the first place. Within (30) thirty days of the Court's entry of this Consent Decree, LaBranche shall

provide the name of its proposed Equal Employment Office Coordinator, and the curriculum vitae and any other information regarding that individual's experience, to the EEOC. The individual proposed must meet the approval of the EEOC.

19. Every six (6) months for the duration of this Decree, LaBranche shall provide periodic reports to EEOC regarding any complaints by employees about discrimination on the basis of disability, whether those complaints are made orally or in writing. If LaBranche receives a complaint in writing, it is to include and attach that written complaint as part of the report to the EEOC.

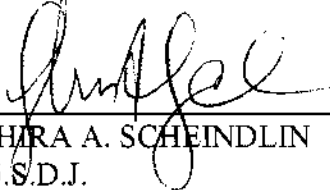
20. Within ten (10) business days of the completion of each training session referenced in ¶¶14-16 above, LaBranche shall provide EEOC sign-in sheets showing who attended the training(s), the job title of each such individual, and indicate the subject matter of the training and its beginning and ending time.

21. In addition to the monitoring provisions set forth elsewhere in this Decree, EEOC may monitor compliance during the duration of this Decree by inspection of defendant's premises, records, and interviews with employees at reasonable times, and upon reasonable advance notice. Upon five days' notice by the EEOC, defendant will make available for inspection and copying any records requested by EEOC, facilities sought to be inspected by EEOC, and employees.

F. OTHER

22. The EEOC and LaBranche agree to bear their own attorneys' fees and costs in connection with this case.

23. This Decree will remain in effect until three years from the date of entry.

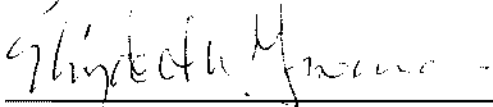


JUDGE SHIRA A. SCHEINDLIN
U.S.D.J.

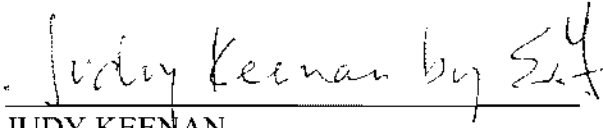
August 11, 2006

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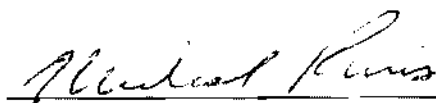
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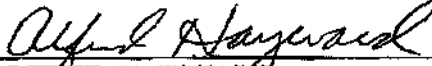
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