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EEOC v. East Hawaii Veterinary Center LLC

Judge David A. Ezra

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EEOC v. East Hawaii Veterinary Center LLC

Keywords

EEOC, Equal Employment Opportunity Commission, East Hawaii Veterinary Center, 1:10-cv-00559-DAE-RLP, Healthcare, Sex, Female, Hostile Work Environment, Sexual Harassment, Constructive Discharge

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24 **UNITED STATES DISTRICT COURT**
25 **FOR THE DISTRICT OF HAWAII**

26 U.S. EQUAL EMPLOYMENT)
27 OPPORTUNITY COMMISSION,) No. CV10- 0559-DAE RLP
28)
29 Plaintiff,) **[PROPOSED] CONSENT DECREE**
30) **AND ORDER**
31)
32 v.)
33)
34 EAST HAWAII VETERINARY) The Honorable David A. Ezra
35 CENTER, LLC; and DOES 1-10,) U.S. District Court Judge
36 Inclusive,)
37)
38 Defendants.)

1 **I. INTRODUCTION**

2 Plaintiff U.S. Equal Employment Opportunity Commission (“EEOC” or the
3 “Commission”) and Defendant East Hawaii Veterimary Center, LLC (hereinafter
4 collectively “Defendant”) hereby stipulate and agree to entry of this Consent
5 Decree to resolve the Commission’s Complaint, filed under Title VII of the Civil
6 Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (“Title VII”). The
7 EEOC alleged that Defendant violated Title VII when it subjected Charging Party
8 Tracy Mays (“Charging Party”) and other similarly situated females to unwelcome
9 sexual harassment and sex-based harassment which was sufficiently severe and
10 pervasive to adversely affect the terms and conditions of their employment and
11 create a hostile, abusive work environment. EEOC further alleged that Defendant
12 violated Title VII when it subjected Charging Party and similarly situated
13 employees to discharge or constructive discharge because of their sex (female).

14 **II. PURPOSES AND SCOPE OF THE CONSENT DECREE**

15 In the interest of resolving this matter, the Commission and Defendant
16 (hereinafter “the Parties”) have agreed that this action should be finally settled by
17 entry of this Consent Decree (“Decree”). This Decree shall be binding on and
18 enforceable against Defendant and its officers, directors, agents, successors and
19 assigns. The Parties have entered into this Decree in order to:

- 20 A. provide appropriate monetary and injunctive relief;
 - 21 B. ensure that Defendant’s employment practices comply with Title VII;
 - 22 C. ensure a work environment free from sex discrimination, including
23 sexual and gender-based harassment;
 - 24 D. ensure training for Defendant’s owners, managers, supervisors and
25 other employees with respect to their obligations and rights under Title VII; and
 - 26 E. provide an appropriate and effective mechanism for receiving and
27 handling discrimination and harassment in the workplace.
- 28

1 **III. RELEASE OF CLAIMS**

2 A. The Parties agree that this Decree completely and finally resolves all
3 claims made in the EEOC's Complaint filed in this action in the United States
4 District Court, for the District of Hawaii on September 29, 2010, captioned *U.S.*
5 *Equal Employment Opportunity Commission vs. East Hawaii Veterimary Center,*
6 *LLC, and DOES 1-10, Inclusive*; Case No. 10-CV-00559- DAE(RLP) (hereafter
7 "Action").

8 B. Nothing in this Decree shall be construed to preclude the EEOC from
9 bringing suit to enforce this Decree in the event that Defendant fails to comply
10 with the terms this Decree.

11 C. Nothing in this Decree shall be construed to limit or reduce
12 Defendant's obligation to comply fully with Title VII or any other federal
13 employment statute.

14 D. This Decree in no way affects the EEOC's right to bring, process,
15 investigate or litigate other charges that may be in existence or may later arise
16 against Defendant.

17 **IV. JURISDICTION**

18 A. The Court has jurisdiction over the parties and the subject matter of
19 this Action. The Complaint asserts claims that, if proven, would authorize the
20 Court to grant the relief set forth in this Decree. The terms and provisions of this
21 Decree are fair, reasonable and just. This Decree conforms with the Federal Rules
22 of Civil Procedure and Title VII and does not derogate the rights or privileges of
23 any person. Entry of this Decree will further the objectives of Title VII and will be
24 in the best interest of the Parties.

25 B. The Court shall retain jurisdiction over this Action for the duration of
26 the Decree for the purposes of entering all orders, judgments and decrees that may
27 be necessary to fully implement the relief provided herein.
28

1 **V. EFFECTIVE DATE AND DURATION OF DECREE**

2 A. The provisions and agreements contained herein are effective
3 immediately on the date which this Decree is entered by the Court (“Effective
4 Date”).

5 B. Except as otherwise provided herein, this Decree shall remain in
6 effect for two and one-half (2-1/2) years after the Effective Date, provided that
7 Defendant substantially comply with the terms of this Decree. In the event that
8 Defendant does not substantially comply with the terms of this Decree, the Court
9 may order any extension of the duration of this Decree necessary to effectuate the
10 Decree’s purposes.

11 **VI. DECREE ENFORCEMENT**

12 A. If the Commission has reason to believe that Defendant has in any
13 way failed to comply with any provision of this Decree, the Commission may
14 bring an action before this Court to enforce the Decree. Before filing such an
15 action, however, the Commission shall notify Defendant of the nature of the
16 dispute. This notice shall specify the particular provision(s) with which the
17 Commission believes Defendant has failed to comply. Absent a showing that the
18 delay will cause irreparable harm, Defendant shall have thirty (30) days from the
19 date of notice (“Dispute Resolution Period”) to attempt to compliance.

20 B. The Parties agree to cooperate with each other and use their best
21 efforts to resolve any dispute raised by the EEOC.

22 C. Where there is a showing that a Dispute Resolution Period will cause
23 irreparable harm, the Commission may immediately initiate an enforcement action
24 in this Court, seeking all available relief, including an extension of the duration of
25 the Decree. Where there is no such showing, the Commission may initiate an
26 enforcement action after the expiration of the Dispute Resolution Period.
27
28

1 **VII. MODIFICATION AND SEVERABILITY**

2 A. This Decree constitutes the complete understanding of the Parties with
3 respect to the matters contained herein. No waiver, modification or amendment of
4 any provision of this Decree shall be effective unless made in writing and signed
5 by an authorized representative of each Party.

6 B. If one or more provisions of this Decree are rendered unlawful or
7 unenforceable, the parties shall make good faith efforts to agree upon the
8 appropriate amendments to this Decree necessary to effectuate its purposes. If the
9 Parties are unable to reach agreement, the Court shall order the appropriate
10 alternative provisions necessary to effectuate the purposes of the Decree. Should
11 one or more provisions of this Decree be deemed unlawful, all other provisions
12 shall remain in full force and effect.

13 **VIII. MONETARY RELIEF**

14 A. In resolution of this action, Defendant shall pay the total sum of ONE
15 HUNDRED ONE THOUSAND AND NO/100THS dollars (\$101,000.00) in
16 monetary relief. This sum is to be distributed, at the sole discretion of the EEOC,
17 amongst the Charging Party and any other similarly situated aggrieved individuals
18 identified by the EEOC (collectively referred to hereinafter as the "Claimants").
19 The EEOC shall provide Defendant with a list identifying each Claimant; the
20 amount of monetary relief to be distributed to each Claimant; the classification of
21 each distribution (i.e., lost wages, compensatory damages, etc.); and the address to
22 which each identified Claimants' distribution shall be delivered. Defendant shall
23 send the check(s), via certified mail, to each Claimant in the amount(s) specified
24 within ten (10) business days of receipt of the EEOC's list described herein.

25 B. Defendant agrees to issue an IRS Form W-2 to each Claimant for all
26 monies paid to them as lost wages. Defendant agrees to issue an IRS Form 1099 to
27 each Claimant for all monies designated as non-wage compensation under Title
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1 VII and no tax withholding shall be made from those amounts consistent with the
2 EEOC's determination that those amounts represent payment for general damages
3 only and are not wages. Defendant shall prepare and distribute W-2 and 1099 tax
4 reporting forms to each Claimant and shall make appropriate reports to the Internal
5 Revenue Service and other tax authorities. Defendant shall be solely responsible
6 for any costs associated with the issuance and distribution of tax reporting forms to
7 the Claimants. Claimants shall be solely responsible for taxes payable, if any, on
8 their respective portion of settlement proceeds.

9 C. Within three (3) business days of the issuance of each settlement
10 check and any IRS tax reporting form, Defendant shall provide a copy of each
11 check and related correspondence to the Regional Attorney, Anna Y. Park, U.S.
12 Equal Employment Opportunity Commission, 255 East Temple Street, 4th Floor,
13 Los Angeles, CA 90012.

14 **IX. CLAIMANT SPECIFIC INJUNCTIVE RELIEF**

15 Within ten (10) days of the Effective Date of this Decree, Defendant shall:

16 A. remove from the personnel files of each Claimant any references to
17 the charge of discrimination underlying this action; or the Claimant's participation
18 in this Action;

19 B. to the extent that Defendant must keep records of the charges of
20 discrimination or any Claimant's involvement in the Action in order to effectuate
21 this Decree, any such records must be maintained separately from Claimants'
22 personnel files;

23 C. refrain from providing negative references about Claimants and limit
24 employment references related to Claimants to verifying whether the identified
25 Claimant was employed by Defendant, the last position in which the Claimant was
26 employed, and the salary and duration of employment with Defendant;

27 D. to the extent that a Claimant continues to work for Defendant, ensure
28

1 that the Claimant does not suffer discrimination, harassment, or retaliation.

2 **X. GENERAL INJUNCTIVE RELIEF**

3 A. Non-Discrimination and Non-Retaliation

4 1. Discrimination. Defendant, its owners, directors, officers, agents,
5 management, successors, assigns, and all those in active concert or participation
6 with them, or any of them, shall be enjoined from discriminating against persons in
7 violation of Title VII, including, but not limited to, engaging in or condoning
8 unwelcome gender-based or sexual harassment against female employees;

9 2. Retaliation. Defendant, its owners, directors, officers, agents,
10 management, successors, assigns, and all those in active concert or participation
11 with them, or any of them, shall be enjoined from engaging in, implementing, or
12 permitting any action, policy or practice that retaliates against any current or
13 former employee or applicant because he or she has in the past or during the term
14 of this Decree:

15 (a) opposed any practice that he or she believed to be
16 discriminatory, harassing or retaliatory;

17 (b) filed a charge with the EEOC alleging such a practice;

18 (c) testified or participated in any manner in any investigation
19 (including any internal investigation undertaken by Defendant), proceeding in
20 connection with this case and/or relating to any claim of a Title VII violation;

21 (d) was identified as a possible witness or claimant in this Action;

22 (e) asserted any rights under this Decree; or

23 (f) sought and/or received any relief in accordance with this
24 Decree.

25 **XI. SPECIFIC INJUNCTIVE RELIEF**

26 A. Posting

1 Within ten (10) business days after the Effective Date and throughout the
2 term of this Decree, Defendant shall post the Notice (attached as “Exhibit A”) in
3 clearly visible locations frequented by its employees. The Notice shall remain
4 posted for the duration of this Decree.

5 B. Equal Employment Opportunity Consultant

6 Within thirty (30) days after the Effective Date, Defendant shall retain
7 Harriet Kiriara to serve as an Equal Employment Opportunity Consultant
8 (“Consultant”) to monitor Defendant’s compliance with Title VII and this Decree.
9 Defendant shall bear all costs associated with the retention of the Consultant and
10 the performance of the Consultant’s duties. The EEOC shall be advised of any
11 proposed substitution of the EEO Compliance Officer thirty days prior to such
12 change where practicable. The EEOC and East Hawaii shall use their best efforts
13 to select an EEO Compliance Officer agreeable to both parties.

14 For the term of the Decree, the Consultant’s responsibilities shall include:

15 1. ensuring that all employees, including the owners, management,
16 supervisory, and lead employees, are trained on their rights and responsibilities
17 under Title VII and this Decree, including the responsibility to provide a workplace
18 free of discrimination, harassment and retaliation;

19 2. ensuring that all employees, including the owners, management,
20 supervisory, and lead employees, are trained on Defendant’s revised policies and
21 procedures relating to discrimination, harassment and retaliation;

22 3. monitoring any investigation of any complaint of discrimination,
23 harassment or retaliation to ensure compliance with Title VII and this Decree;

24 4. ensuring that Defendant properly communicates with complainants as
25 required by this Decree;

26 5. ensuring that Defendant’s performance and discipline policies hold
27 the owners, employees, and managers accountable for failing to take appropriate
28

1 action regarding complaints of discrimination, harassment or retaliation, or for
2 engaging in conduct prohibited under Title VII or this Decree;

3 6. ensuring appropriate levels of discipline up to and including
4 termination of employees including but not limited to any of Defendant's
5 employees who fail to meet his or her obligations regarding Defendant's anti-
6 discrimination policies and procedures, this Decree, and Title VII;

7 7. ensuring that Defendant accurately compiles and timely submits all
8 reports by required this Decree; and

9 8. ensuring that Defendant fully complies with all other terms of this
10 Decree.

11 C. Policies Concerning Discrimination, Harassment and Retaliation

12 1. As part of the resolution of this action, and prior to the Effective Date
13 of this Decree, Defendant drafted; or reviewed and then revised its policies and
14 procedures regarding unlawful discrimination, harassment and retaliation ("final
15 policy") and a copy of the revised policies and procedures are attached hereto as
16 Exhibit B. The final policy includes:

17 (a) a clear explanation of prohibited conduct in violation of Title
18 VII, including on the basis of sex, including examples of sexual harassment,
19 gender-based harassment and other prohibited conduct;

20 (b) a complete copy of the final internal complaint procedure
21 described in subsection XI.D. below.

22 (c) a provision expressly holding all employees, including its
23 owners, management, supervisory, and lead employees, accountable for engaging
24 in conduct prohibited under Title VII or this Decree; and

25 (d) a provision expressly holding its owners, all management,
26 supervisory, and lead employees accountable for failing to take appropriate action
27 to address discrimination, harassment, or retaliation.
28

1 D. Complaint Procedure

2 1. As part of the resolution of this action, and prior to the Effective Date
3 of this Decree, Defendant drafted; or reviewed and revised the complaint
4 procedure contained in its final policy. The complaint procedure clearly states
5 that:

6 (a) an employee who believes that he or she has suffered
7 discrimination, harassment or retaliation in Defendant's workplace may lodge a
8 complaint with his or her immediate supervisor, or, if the individual is not
9 comfortable complaining to that official, then to one, or both, of the Co-Owners.
10 In the event that the complaint concerns the conduct of one of the Co-Owners, the
11 employee should lodge his or her complaint with the other Co-Owner. In the event
12 that the complaint concerns both Co-Owners, or that the employee is
13 uncomfortable complaining to both Co-Owners, the employee should lodge his or
14 her complaint with Harriet Kirihara.

15 (b) an employee who believes that he or she has suffered
16 discrimination, harassment or retaliation may file an internal complaint using
17 Defendant's internal complaint procedure, or may file an external complaint to any
18 appropriate person or agency, or both;

19 (c) employees may initiate an internal complaint verbally or in
20 writing, and that no special form is required;

21 (d) Defendant will not tolerate retaliation against any employee
22 who complains of discrimination, harassment or retaliation using the internal
23 complaint procedure or state or federal external complaint procedure, for assisting
24 in the investigation of a complaint; or for otherwise assisting in a complaint;

25 (e) the internal complaint procedure does not replace the right of
26 any employee to file a charge or complaint of discrimination, harassment or
27 retaliation under any available municipal, state, or federal law; and
28

1 (f) if an allegation of discrimination or retaliation against any
2 employee is substantiated, then such conduct will result in appropriate discipline,
3 up to and including discharge.

4 2. The internal complaint procedure shall ensure that Defendant will:

5 (a) maintain the confidentiality of the complaint, complainant and
6 investigation to the fullest extent possible;

7 (b) take every reasonable step to promptly resolve complaints;

8 (c) promptly commence a thorough investigation that shall be
9 conducted by a person trained to conduct such investigations who is not connected
10 with the complaint;

11 (d) interview all relevant witnesses, including the complainant, and
12 review all relevant documents;

13 (e) provide opportunity for the complainant to review and respond
14 to tentative findings, except in those circumstances in which it is necessary to take
15 immediate action;

16 (f) communicate with the complainant in writing regarding the
17 status of the complaint, investigation, results of the investigation and any remedial
18 action taken; and

19 (g) track investigations and maintain written records of all
20 investigatory steps, any findings or conclusions of the investigation and any
21 remedial actions taken;

22 3. The internal complaint procedure shall NOT require that the
23 complainant:

24 (a) confront his or her harasser;

25 (b) file an internal complaint instead of an external complaint; or

26 (c) initiate the complaint process only by submitting a written
27 complaint.

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1 4. After the complaint has been addressed Defendant shall confidentially
2 follow-up at reasonable intervals to inquire whether the complainant believes that
3 he or she has been further harassed and/or retaliated against, and, if necessary,
4 Defendant shall investigate any allegations of retaliation.

5 5. The Consultant shall log all complaints filed under the revised internal
6 complaint procedures and retain records regarding investigation and resolution of
7 all such complaints, including but not limited to those complaints made through the
8 hotline. The Consultant shall also ensure that Defendant publicize the revised
9 internal complaint procedures and shall monitor Defendant's investigation and
10 resolution of any complaints made. The Consultant shall also ensure that
11 complainants are not subjected to retaliation.

12 E. Distribution of Final Policy and Complaint Procedure

13 Within thirty (30) days of the Effective Date of this Decree , Defendant shall
14 distribute the final policies, including the revised internal complaint procedure
15 decribed herein, to all employees, including its owners, management, supervisory,
16 and lead employees. Defendant shall have each employee who receives a copy of
17 the final policies sign a form acknowledging receipt. Throughout the term of this
18 Decree, Defendant shall post the final policies, including the revised internal
19 complaint procedures in a clearly visible location frequented by employees.

20 F. Training

21 1. All non-supervisory employees, shall be required to attend a live
22 training program of at least two hours regarding discrimination, harassment, and
23 retaliation. The training under this section shall include review of EEO Law; every
24 employee's rights and responsibilities under Title VII with an emphasis on hostile
25 work environments based on sex; and Defendant's final policies and procedures for
26 reporting and handling complaints of harassment, discrimination, and retaliation.
27 Examples shall be given of the prohibited conduct to ensure understanding by the
28

1 employees. This training shall be provided by the Consultant.

2 2. The training described in this subsection shall be mandatory and shall
3 occur once every year for the first two years of the two and one half (2-1/2) year
4 term of this Decree. The training for the first year of the Decree shall occur within
5 ninety (90) days of the Effective Date of this Decree. Any employee who fails to
6 attend any scheduled training shall be trained within (30) days of the live training
7 set forth above, by showing the employee a videotape of the training session.

8 3. Defendant's owners, and every managerial, supervisory, and lead
9 employees shall be required to attend an additional Management Training of at
10 least two hours duration once every calendar year for the term of this Decree, i.e.
11 once every year for the first two years of the two and one half (2-1/2) year term of
12 this Decree. The Management Training for the first year of the Decree shall occur
13 within sixty (60) days of the Effective date of this Decree. Any employee who
14 fails to attend any scheduled training shall be trained within (30) days of the live
15 training set forth above, by showing the employee a videotape of the training
16 session. For purposes of this Decree, managerial, supervisory, and lead employees
17 consist of the Practice Manager or the co-owners.

18 4. All Management Training shall include review of EEO Law; every
19 employee's rights and responsibilities under Title VII and this decree; Defendant's
20 final policies and procedures for reporting and handling complaints of harassment,
21 discrimination, and retaliation; training on how to properly handle and investigate
22 complaints of discrimination, harassment and retaliation; how to take preventive
23 and corrective measures against discrimination, harassment, and retaliation; and
24 how to recognize and stop discrimination, harassment, and retaliation. Examples
25 shall be given of the prohibited conduct to ensure understanding by the employees.
26 This Management Training shall be provided by the Consultant.

27 5. Within thirty (30) days of the date of hire, for the remainder of the
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1 term of this Decree, every new employee, including non-managerial, managerial,
2 supervisory, and lead employees, shall receive the appropriate training described
3 above. Such training of newly hired employees may be provided via video
4 presentation of the live training conducted pursuant to this subsection.

5 6. Within thirty (30) days of the date of promotion, for the remainder of
6 the term of this Decree, every employee promoted from a staff position to a
7 managerial, supervisory or lead position shall receive the above described
8 Management Training. Such training of newly promoted management employees
9 may be provided via video presentation of the live training conducted pursuant to
10 this subsection.

11 7. Any employee required to attend any training under this Decree shall
12 verify in writing his or her attendance at each training.

13 8. Within thirty (30) days after the Effective Date, Defendant shall
14 submit to EEOC a description of the trainings to be provided and an outline of the
15 curriculum developed for the trainees.

16 9. Upon receipt, the EEOC may provide comment within thirty (30) days
17 regarding any any necessary revisions to the training.

18 10. Defendant shall give the EEOC a minimum of ten (10) business days
19 advance written notice of the date, time and location of each training provided
20 pursuant to this Decree. An EEOC representative may attend any such training, at
21 the sole discretion of the EEOC.

22 **XII. RECORD-KEEPING**

23 Within ninety (90) days of the Effective Date, Defendant shall work with the
24 Consultant and establish a record-keeping procedure that provides for the
25 centralized tracking of discrimination, harassment and retaliation complaints and
26 the monitoring of such complaints to prevent retaliation. The records to be
27 maintained shall include:
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1
2 A. all documents generated in connection with any complaint, including
3 documents relating to all investigations or resolutions of any complaints and the
4 identities of all witnesses identified by the complainant and/or through Defendant's
5 investigation;

6 B. all forms acknowledging employees' receipt of Defendant's revised
7 anti-discrimination, anti-harassment and anti-retaliation policy; and

8 C. all documents verifying the occurrence of all training sessions and
9 names and positions of all attendees for each session as required under this Decree;

10 D. all documents generated in connection with the monitoring,
11 counseling and disciplining of employees whom Defendant determined to have
12 engaged in behavior that may be discriminatory, harassing and/or retaliatory;

13 Defendant shall make the aforementioned records available to the EEOC
14 within ten (10) business days following a written request by the EEOC.

15 **XIII. REPORTING**

16 Defendant shall provide, the following reports to the EEOC in writing, by
17 mail or e-mail:

18 Defendant shall provide the following two annual reports and a final report
19 throughout the term of this Decree (the first annual report shall be provided within
20 thirty (30) days after the first 12-month period of the Decree; the second annual
21 report shall be provided within thirty (30) days of the end of the second 12-month
22 period of the Decree; and the final report shall cover the last six months of this
23 Decree):

- 24 1. complete employee list, including start date and job title;
25 2. complete attendance lists for all training sessions required
26 under this Decree that took place during the previous year and/or last six months;
27 3. a description of all discrimination, harassment and retaliation
28

1 complaints made, investigated or resolved in the previous year and/or last six
2 months, including the names of the complainants; the nature of the complaint; the
3 names of the alleged perpetrators of discrimination, harassment or retaliation; the
4 dates of the alleged harassment or retaliation; a brief summary of how each
5 complaint was resolved; and the identity of each of Defendant's employee(s) who
6 investigated or resolved each complaint and the identity and most recent contact
7 information for each witness identified by the complainant and/or investigation;
8 and a summary of the monitoring done when more than one complaint is filed by
9 or against a particular employee, as well as any investigation or resolution.

10 Defendant will provide a report discussing any planned changes to the
11 policies, procedures or record-keeping methods for complaints, at least thirty (30)
12 days prior to implementing such changes.

13 **XIV. COSTS OF ADMINISTRATION AND IMPLEMENTATION OF**
14 **CONSENT DECREE**

15 Defendant shall bear all costs associated with its administration and
16 implementation of its obligations under this Decree.

17 **XV. COSTS AND ATTORNEYS' FEES**

18 Each Party shall bear its own costs of suit and attorneys' fees.

19 **XVI. MISCELLANEOUS PROVISIONS**

20 A. During the term of this Decree, Defendant shall provide any potential
21 successor-in-interest with a copy of this Decree within a reasonable time of not less
22 than thirty (30) days prior to the execution of any agreement for acquisition or
23 assumption of control of any or all of Defendant's facilities, or any other material
24 change in corporate structure, and shall simultaneously inform the EEOC of same.

25 B. During the term of this Decree, Defendant and its successors shall
26 ensure that each of its owners, directors, officers, managers, supervisors and leads
27
28

1 is aware of any term(s) of this Decree which may be related to his/her job duties.

2 C. Unless otherwise stated, all notices, reports and correspondence
3 required under this Decree shall be delivered to the attention of the Regional
4 Attorney, Anna Y. Park, U.S. Equal Employment Opportunity Commission, Los
5 Angeles District Office, 255 E. Temple St., 4th Fl., Los Angeles, CA 90012.

6 D. The parties agree to entry of this Decree and judgment subject to final
7 approval by the Court.


8 **XVII. COUNTERPARTS AND FACSIMILE SIGNATURES**

9 This Decree may be signed in counterparts. A facsimile signature shall have
10 the same force and effect of an original signature or copy thereof.

11 All parties, through the undersigned, respectfully apply for and consent to
12 the entry of this Decree as an Order of this Court.

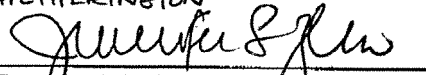
13
14 U.S. EQUAL EMPLOYMENT
15 OPPORTUNITY COMMISSION

16 Dated: 5/16/, 2011

17 By: 
18 Anna Y. Park, Regional Attorney
19 Attorneys for Plaintiff EEOC

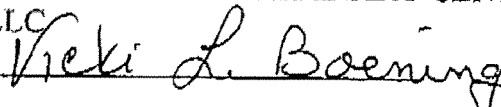
20 TORKILDSON KATZ MOORE
21 ~~HEATHERING~~ & HARRIS
22 ~~HETHERINGTON~~

23 Dated: MAY 13 2011, 2011

24 By: 
25 Tamara M. Gerrard, Esq.
26 Jennifer L. Zelko, Esq.
27 Attorneys for Defendant East Hawaii
28 Veterinary Center, LLC

EAST HAWAII VETERINARY CENTER,
LLC

Dated: MAY 13 2011 2011

By: 

MAY-12-2011 15:57 FROM:EAST HAWAII VETERINA 808 959 2098

TO:18085236001

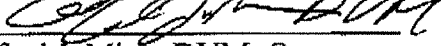
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Vicki L. Boening, Owner

EAST HAWAII VETERINARY CENTER,
LLC

Dated: 12 MAY, 2011

By: 
Alfred J. Mina, DVM, Owner

[PROPOSED] ORDER

The provisions of the foregoing Consent Decree are hereby approved and compliance with all provisions thereof is HEREBY ORDERED. The Court hereby retains jurisdiction over this Consent Decree until the its termination, as determined by this Court.

IT IS SO ORDERED.

Date: _____

The Honorable David A. Ezra
United States District Court Judge

U.S. Equal Employment Opportunity Commission v. East Hawaii Veterinary Center, LLC; CV10- 0559-DAE RLP; [Proposed] Consent Decree and ORDER

EXHIBIT A

EXHIBIT A



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Los Angeles District Office**

255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Los Angeles Status Line: (866) 408-8075
Los Angeles Direct Dial: (213) 894-1096
TTY (213) 894-1121
FAX (213) 894-1118

NOTICE OF SETTLEMENT AND CONSENT DECREE

TO: ALL EMPLOYEES

The U.S. Equal Employment Opportunity Commission (“EEOC”) filed a lawsuit in the United States District Court for the District of Hawaii against East Hawaii Veterinary Center, LLC, Case Number CV10-00559-DAE-RLP. EEOC filed this lawsuit alleging that a female employee and similarly situated individuals were subjected to a hostile work environment based on their gender which resulted in tangible adverse employment actions, and constructive discharge. East Hawaii Veterinary Center, LLC has denied the allegations. The parties agreed to settle the case by entering into a “Consent Decree.” Under the terms of the Consent Decree, East Hawaii Veterinary Center, LLC agrees to a monetary payment and various types of injunctive remedies including ensuring that policies and procedures against harassment conform to Title VII; hiring an outside monitor to oversee compliance with Title VII; training employees regarding harassment; and providing EEOC with periodic reporting regarding the injunctive remedies.

Pursuant to the Consent Decree, employees are being given notice that any violations of East Hawaii Veterinary Center, LLC’s policy against harassment and discrimination will be thoroughly investigated. Individuals found to have violated that policy will be subject to discipline up to and including termination of employment. All employees will undergo training to correct and prevent unlawful harassment and discrimination towards employees.

Federal law requires that there be no harassment or discrimination against any employee or applicant for employment because of a person’s age, disability, race, sex, color, religion or national origin, with respect to hiring, compensation, promotions, discharge, terms and conditions or privileges of employment.

East Hawaii Veterinary Center, LLC is committed to complying with federal anti-discrimination laws in all respects. It will not tolerate harassment or discrimination, and will not tolerate retaliation against any employee because of the filing of a charge of discrimination, giving testimony or assistance, or participation in any manner in any investigation.

If you believe that you have been harassed, discriminated against because of your sex, national origin, age, race, color, religion, or disability, you may follow East Hawaii Veterinary Center, LLC’s internal procedure and/or you may seek assistance from:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
300 Ala Moana Blvd., Room 7-127
Honolulu, Hawaii 96850-0051
TELEPHONE NUMBER: (808) 541-3118

You may obtain a copy of the settlement document (“Consent Decree”) at your expense. To obtain a copy, you must contact the Office of the U.S. District Court Clerk at 300 Ala Moana Blvd., Honolulu, Hawaii 96850.

EXHIBIT B

EXHIBIT B

EAST HAWAII VETERINARY CENTER, LLC (“the Center”)

Sexual Harassment

Every employee deserves a work environment that is free of objectionable and disrespectful conduct and/or communication of a sexual nature. Conduct that creates an intimidating, hostile, or offensive work environment will not be tolerated. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is strictly prohibited.

Examples of prohibited conduct include but are not limited to:

Verbal Behavior: sexual or suggestive comments, jokes, teasing or nicknames; remarks of a sexual nature or with sexual innuendo about a person’s clothing or body; gossip regarding one’s sexual activities/life; using foul or obscene language; demeaning comments about women/men in general; any sexual advance or propositioning an individual or repeatedly “asking out” or attempting to establish a relationship with an individual, who by word or conduct in any way indicates that such action is not welcome; sending offensive voice-mail or e-mail messages. Derogatory gender based remarks are prohibited even if they are not sexual in nature. In other words, negative remarks or jokes about men or women as a group are also prohibited under this policy.

Nonverbal Behavior: leering, ogling, obscene gesturing, or suggestive or insulting sounds; sending/circulating/displaying materials of a sexual nature including pornographic or suggestive posters, pictures, cartoons, objects, or offensive letters, poems, e-mail messages, or internet posting (e.g., Facebook, MySpace).

Physical Behavior: any unwelcome touching, such as groping, patting, pinching, hugging, massaging, kissing, or brushing up against the body of another.

Abuse of Power: conditioning an employee’s receipt of a benefit or favorable working condition, or foregoing

an adverse employment action (such as discipline, a pay cut, demotion, etc.) based upon an employee's submission to sexual conduct or in exchange for sexual favors. Coercing an employee into submitting to sexual conduct by providing preferential treatment.

Conduct of this nature is prohibited by the Center, whether the person engaging in such conduct is an owner, manager, supervisor, coworker, or third party (such as suppliers, customers, and service personnel).

Employees must refrain from engaging in prohibited conduct and are also expected to report any prohibited conduct of which they become aware.

Employees should report prohibited conduct to his or her immediate supervisor. The report may be verbal or in writing. If the employee is not comfortable complaining to his or her supervisor, then he or she should complaint to one of the owners. In the event that the complaint concerns the conduct of one of the owners, and the employee is uncomfortable reporting the conduct to the other owner, then the employee should report the conduct to the Center's EEO Consultant, Harriet Kirihara.

This internal complaint procedure does not prevent an employee from filing a charge or complaint of discrimination, harassment or retaliation under state or Federal law.

It is the Center's policy to investigate each report in a prompt, thorough, and impartial manner. All complaints will be investigated, relevant witnesses will be interviewed, relevant documents will be reviewed, and the appropriate parties will be notified of the results. The complainant will have the opportunity to review and respond to tentative findings, except where it is necessary to take immediate action. The Center will communicate with the complainant in writing regarding the status of the complaint, investigation, results of the investigation and any remedial actions taken. Investigations will be conducted by a person qualified to conduct such investigations and this person will not be connected with the complaint. The Center will maintain the confidentiality of the complaint,

complainant and investigation to the fullest extent possible. The Center will track every investigation and maintain written records of all investigatory steps, any findings and conclusions of the investigation and any remedial action taken.

Any employee, manager, supervisor or owner found to have engaged in sexual harassment, discrimination or retaliation will be subject to disciplinary action, up to and including termination. All managers, supervisors and owners will also be subject to disciplinary action, up to and including termination, for failing to take appropriate action to address discrimination, harassment and retaliation.

The Center will not tolerate retaliation against any employee who complains of discrimination, harassment or retaliation for filing and internal or external complaint, for assisting in an investigation of a complaint, or for opposing an employment practice they reasonably believe constitutes unlawful discrimination/harassment.

After the complaint has been addressed, the Center will confidentially follow-up periodically to ensure that the complainant has not been harassed and/or retaliated against, and the company will investigate any allegations of retaliation.