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7-2-2003

## Equal Employment Opportunity Commission v. Memphis Lamp, Inc.

Judge Daniel Breen

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## Equal Employment Opportunity Commission v. Memphis Lamp, Inc.

### Keywords

EEOC, Memphis Lamp Inc., 01-2332-BrA, Consent Decree, Disparate Treatment, Termination, Retaliation, Promotions, Hiring, Race, Black, Retail, Employment Law, Title VII

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

03 JUL -3 PM 1:22

CLERK  
U.S. DIST. CT.  
MEMPHIS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	<i>Filed: 7-2-03 2:55 p.m.</i>
	)	
	)	
Plaintiff,	)	CIV. ACTION NO.
	)	01-2332-BrA
v.	)	
	)	<u>Jury Trial Demanded</u>
MEMPHIS LAMP, INC.,	)	
	)	
Defendant.	)	

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**CONSENT DECREE**

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**Introduction**

For purposes of settlement and compromise only, the parties have advised the Court that they wish to resolve the instant controversy without the expense, delay, and burden of further litigation;

THEREFORE, it is the finding of this Court, made on the pleadings and on the record as a whole and upon agreement of the parties, that: (i) this Court has jurisdiction over the parties to and the subject matter of this action, (ii) the requirements of Title VII will be carried out by the implementation of this Decree, (iii) this Decree is intended to and does resolve all matters in controversy in this lawsuit among the parties, and (iv) the terms of this Decree constitute a fair and equitable settlement of all issues in this lawsuit.

Plaintiff, Equal Employment Opportunity Commission (hereinafter the "Commission"), has instituted this action alleging that Defendant failed to promote Black employees into management positions because of their race; failed to hire Black applicants for telephone sales and management positions because of their race; terminated Kendra Hardy in

retaliation for her participation in a charge of discrimination she filed against Defendant; and failed to comply with certain record keeping requirements in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. (hereinafter "Title VII").

Defendant has consistently denied each and every one of these allegations.

IT IS THEREFORE ORDERED. ADJUDGED, AND Decreed as follows:

**I. General Provisions**

1. This Decree, being entered with the consent of the parties for purposes of settlement, shall not constitute an adjudication on the merits of this lawsuit and shall not be construed as an admission by Defendant of any violation of Title VII or any executive order, law, rule or regulation dealing with or in connection with race discrimination, harassment, or retaliation in employment.

2. The Defendant, its officers, agents, employees, and all persons acting in concert with the Defendant agree that they will not engage in any practices that discriminate based on race. Defendant further agrees that it will not take any adverse action against any employee of Defendant or any other individual because he or she opposed practices made unlawful under Title VII of the Civil Rights Act of 1964 or for making a charge or complaint to the Commission, testifying, assisting or participating in any manner in any investigation, proceeding or hearing under the Title VII of the Civil Rights Act of 1964.

3. Defendant shall preserve personnel records regarding persons who have been employed in Memphis, Tennessee as required by the Commission's regulations found at 29 CFR §1602.14. In the event that any Defendant transfers or sells either or both of its operating facilities to another person or ceases to operate either or both, said Defendant shall continue to

preserve personnel records relating to personnel employed to work in the facility for the period of time specified in the regulations.

4. Except as to the employer's share of F.I.C.A., all tax consequences of the receipt of any monetary amounts described herein are the sole responsibility of the recipients thereof.

## **II. Kendra Hardy**

1. Within thirty (30) days of the entry of this Decree, Defendant shall forward to Kendra Hardy:

- a. A backpay check in the gross amount of \$8,125, less only any applicable deductions for the employee's portion of FICA and applicable federal and state income tax withholdings;
- b. A check for compensatory damages, and interest on the backpay in the full amount of \$8,125; and
- c. A statement itemizing the deductions from the backpay check.

2. Within thirty (30) days of the entry of this Decree, Defendant will prepare a letter in the form shown in Exhibit A on appropriate company letterhead, will deliver the original signed letter to Plaintiff's counsel, and will make a signed copy of the resulting letter part of the permanent employment record of Kendra Hardy. In the case of any inquiries by any prospective employers regarding Kendra Hardy, Defendant will limit its response to the information contained in the aforementioned letter, which shall be available to the prospective employer and a copy provided, if requested.

### **III. Irene Patterson**

1. Within thirty (30) days of the entry of this Decree, Defendant shall forward to Irene Patterson:

- a. A backpay check in the gross amount of \$3,312.50, less only any applicable deductions for the employee's portion of FICA and applicable federal and state income tax withholdings;
- b. A check for compensatory damages, and interest on the backpay in the full amount of \$3,312.50; and
- c. A statement itemizing the deductions from the backpay check.

2. Within thirty (30) days of the entry of this Decree, Defendant will prepare a letter in the form shown in Exhibit B on appropriate company letterhead, will deliver the original signed letter to Plaintiff's counsel, and will make a signed copy of the resulting letter part of the permanent employment record of Irene Patterson. In the case of any inquiries by any prospective employers regarding Irene Patterson, Defendant will limit its response to the information contained in the aforementioned letter, which shall be available to the prospective employer and a copy provided, if requested.

### **IV. Release Forms**

1. Within thirty (30) days of the entry of this Decree, The Commission will forward to Defendant release forms in the form shown in Exhibit C signed by Kendra Hardy and Irene Patterson.

### **V. Posting and Policies**

1. Within thirty (30) days of the entry of this Decree, Defendant shall cause the notice and policy attached hereto as Exhibit D to be signed by its President and distributed to

each and every management official employed at any facility owned and operated by Defendant in Memphis, Tennessee. Defendant shall also cause all of the aforementioned officials to sign a statement indicating that they have received and read the policy.

2. Within thirty (30) days of the entry of this Decree, Defendant shall post and cause to remain posted signed copies of the notice and policy attached hereto as Exhibit D in locations publicly visible to all employees in all facilities owned and operated by Defendant within Memphis, Tennessee for the term of this Decree.

#### **VI. Reporting, Record-keeping, and Access**

1. Within forty-five (45) days of the entry of this Decree, Defendant shall prepare and submit to the Commission's Regional Attorney in its Memphis District Office a letter indicating that the notice and policy has been signed, posted and distributed as required by section V, above. The signed copies of statement(s) from all managers indicating that they have read Exhibit D shall be enclosed with the letter. During the term of this Decree Defendant shall allow representatives of the Commission to review Defendant's compliance specifically with section 1, paragraph 3, of this Decree by inspecting and photocopying relevant documents and records, interviewing employees and management officials on their premises, and inspecting their premises. Such review of compliance shall be initiated by written notice to the Defendant's attorney of record at least five (5) business days in advance of any inspection of a Defendant's documents or premises.

#### **VII. Term and Effect of Decree**

1. By entering into this Decree the parties do not intend to resolve any charges of discrimination currently pending before the Commission other than the charges that created the procedural foundation for the complaint in this case.

2. This Decree shall be binding upon the parties hereto, their successors and assigns. Defendant shall affirmatively notify any purchasers of the obligations of this Consent Decree prior to any sale which may take place.

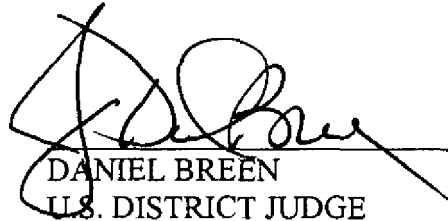
3. This Decree constitutes the complete and exclusive agreement between the EEOC and Memphis Lamp, Inc., with respect to the matters referred to herein. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Decree.

4. This Decree shall be for a period of twelve (12) months and can only be extended for good cause shown. During the Decree's term the Court shall retain jurisdiction of this cause for purposes of compliance. Thereafter, this case shall be dismissed by the Court, with prejudice.

5. Each party shall bear that party's own costs.

DATE: \_\_\_\_\_

July 2, 2003

  
\_\_\_\_\_  
DANIEL BREEN  
U.S. DISTRICT JUDGE



**Memphis Lamp Inc.**

P.O. BOX 18353  
MEMPHIS, TN. 38181-0353  
3771 PREMIER COVE  
MEMPHIS, TN. 38118-6035  
PHONE 901-360-1942 FAX: 901-542-9489

JUNE 3, 2003

TO WHOM IT MAY CONCERN:

KENDRA HARDY WAS EMPLOYED BY MEMPHIS LAMP, INC.  
BETWEEN 12/8/1993 AND 6/19/2000. DURING MOST OF THAT TIME SHE  
WORKED AS A SHOWROOM CLERK. SHE WAS LAID OFF DUE TO A LACK OF  
WORK.

  
\_\_\_\_\_  
DAVID MARRS  
PRESIDENT  
MEMPHIS LAMP INC.



**Memphis Lamp Inc.**

**P.O. BOX 18353  
MEMPHIS, TN. 38181-0353  
3771 PREMIER COVE  
MEMPHIS, TN. 38118-6035  
PHONE 901-360-1942 FAX: 901-542-9489**

JUNE 3, 2003

TO WHOM IT MAY CONCERN:

IRENE PATTERSON WAS EMPLOYED BY MEMPHIS LAMP, INC. BETWEEN 5/21/1997 AND 7/27/2001. DURING MOST OF THAT TIME SHE WORKED AS A SHOWROOM CLERK. SHE WAS LAID OFF DUE TO A LACK OF WORK. HER JOB PERFORMANCE WAS CONSISTENTLY ACCEPTABLE.

  
\_\_\_\_\_  
DAVID MARRS  
PRESIDENT  
MEMPHIS LAMP INC.

**Exhibit C**

**Release Form**

In consideration of the payment to me pursuant to the Consent Decree entered in EEOC v. Memphis Lamp, Inc., No. 01-2332-GV (W.D. Tenn.), of which this release is part, I hereby fully and forever release and discharge Memphis Lamp, Inc., its successors and assigns, including its present and former directors, officers, employees and agents, from any claim or obligation based on discrimination or retaliation in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., which was or could have been raised in such Civil Action No. 01-2332-GV.

I have read this release and I execute it voluntarily, without coercion or threat of reprisal.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

P.O. BOX 18353  
MEMPHIS, TN. 38181-0353  
3771 PREMIER COVE  
MEMPHIS, TN. 38118-6035  
PHONE 901-360-1942 FAX: 901-542-9489

**NOTICE TO EMPLOYEES**

**EQUAL EMPLOYMENT OPPORTUNITY POLICY**

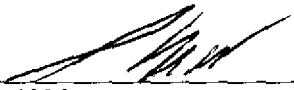
It is the policy of Memphis Lamp, Inc., to prohibit discrimination based upon race, color, religion, sex, national origin, disability, or age (forty and over) with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment. Any Memphis Lamp, Inc., corporate employee or manager found to have treated any employee or applicant for employment differently on the basis of race, color, religion, sex, national origin, disability or age shall be subject to discipline which could include discharge. Supervisory employees are specifically directed to avoid making employment decisions which are based on any of the above factors, and to avoid harassing employees, verbally or otherwise, because of such factors.

It is also our policy that employees are entitled to make complaints about actions that they believe may be discriminatory. Discrimination complaints may be made to any upper level member of management or to any appropriate action against an offending party.

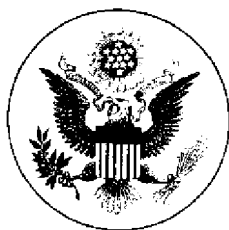
Further it is our policy that employees complaining about discrimination shall not be subject to any adverse action as a result of their complaints.

Federal law requires that personnel records made by certain covered employees, such as applications, be preserved by the employer for one year from the date of the making of the record or the personnel action involved, whichever occurs later. Federal law further requires that personnel records relevant to a charge of discrimination filed with the EEOC be retained until such time as proceedings based upon the charge have been concluded.

Memphis Lamp, Inc., supports and will comply with such Federal law in all respects.

  
\_\_\_\_\_  
David Marrs  
President  
Memphis Lamp, Inc.





## Notice of Distribution

This notice confirms a copy of the document docketed as number 93 in case 2:01-CV-02332 was distributed by fax, mail, or direct printing on July 3, 2003 to the parties listed.

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Katharine W. Kores  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
1407 Union Avenue  
Ste. 621  
Memphis, TN 38104

Thomas J. Borek  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
1407 Union Avenue  
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Faye A. Williams  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
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Celia S. Liner  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
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Jeff Weintraub  
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Memphis, TN 38120

Kenneth O. Cooper  
WEINTRAUB STOCK & GRISHAM  
Renaissance Center  
1715 Aaron Brenner Dr.  
Ste. 512  
Memphis, TN 38120

Honorable J. Breen  
US DISTRICT COURT