

TMG

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

211

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION, *et al.*,)
)
Plaintiffs,)
)
v.)
)
CONECTIV, *et al.*,)
)
Defendants.)

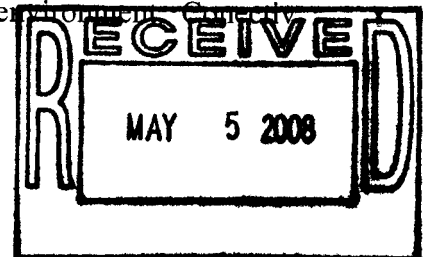
C.A. NO. 2:05-cv-03389-TMG

CONSENT DECREE

MICHAEL J. ... Clerk
By ... Dep. Clerk

A. This action was brought by the United States Equal Employment Opportunity Commission ("the EEOC") on July 1, 2005, against Conectiv under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race (Black) at a construction site and to provide appropriate relief to Keith Riddick, James Slater, Roy Grimes ("Charging Parties"), each of whom filed charges of discrimination with the EEOC (collectively, the "Charges"), and a class of similarly situated Black employees who were adversely affected by such practices (the "Lawsuit").

The EEOC alleged Conectiv allowed Charging Parties and the class members to be subjected to egregious racial harassment in the form of racist graffiti on the walls and surfaces of portable toilets on the construction site, display of a hangman's noose, racial slurs and racially derogatory comments from both managers and co-workers of prime contractors to Conectiv and their subcontractors ("contractors"). The EEOC further alleges that although the Charging Parties and class members complained about the racial harassment, Conectiv failed to take prompt, effective, remedial measures to correct the racially hostile work environment.



denied all allegations of a racially hostile work environment and racial harassment, including all allegations that it was aware of, but failed to take remedial measures to correct, racial harassment.

B. This Consent Decree is entered into by and shall be final and binding between the EEOC and Defendant Conectiv (“Conectiv”), their directors, officers, agents, successors and assigns.

C. The EEOC and Conectiv agree to entry of the Consent Decree, which shall fully and finally resolve all claims the EEOC raised in its complaint in the Lawsuit. The Consent Decree shall not constitute either an adjudication of or finding on the merits of the complaint and shall not be construed as an admission by Conectiv of any violation of Title VII.

FINDINGS

D. Having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings, record and stipulations of the parties, the Court finds: (1) it has jurisdiction over the parties and subject matter jurisdiction of this action; and (2) the terms of the Consent Decree are fair, reasonable, equitable and just, and adequately protect the rights of the parties, class members and the public interest.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

NON-DISCRIMINATION AND NON-RETALIATION

1. This Court has jurisdiction over the parties and subject matter of this action.
2. Conectiv shall not engage in any employment practice which operates to harass contractor employees based on race in violation of Title VII.
3. Conectiv shall not engage in any employment practices which retaliate in any manner against any person, including but not limited to Keith Riddick, James Slater,

Roy Grimes, Jeffrey Campbell or any individual identified or named during the Lawsuit and/or during the EEOC's investigation into the Charges as a claimant, potential claimant, or witness, because of that person's opposition to any practice made an unlawful employment practice under Title VII or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title VII.

4. Nothing in the Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of Conectiv under Title VII or the EEOC's authority to process or litigate any charge of discrimination now pending, if any, or filed in the future against Conectiv, if any (except for the Charges and the claims alleged in the Lawsuit).

DURATION OF THE DECREE

5. The Consent Decree shall be in effect for a period of four (4) years from the date it is entered by the Court.

MONETARY RELIEF

6. Conectiv agrees to pay monetary relief in the total amount of seven hundred and fifty thousand dollars (\$750,000.00), to Keith Riddick, James Slater, Roy Grimes and Jeffrey Campbell in full settlement of the claims raised against Conectiv in the Lawsuit. The monetary relief will be paid in the following manner: within ten (10) business days after receipt of executed Releases executed by Keith Riddick, James Slater, Roy Grimes and Jeffrey Campbell and the Court's entry of the Consent Decree, whichever date is later, Conectiv will pay Keith Riddick, James Slater, Roy Grimes and Jeffrey Campbell a total of seven hundred and fifty thousand dollars (\$750,000.00); the payment will be allocated as provided in Exhibit 1. If Conectiv does not make payment in the manner set forth in this Paragraph, the Court will enter a

judgment for the entire amount remaining due, plus attorney's fees, costs, and interest paid at the legal rate, compounded daily.

The check(s) will be mailed to Keith Riddick, James Slater, Roy Grimes and Jeffrey Campbell c/o Joanne Rathgeber, Esq., Hill Wallack, LLP, 111 East Court Street, Doylestown, PA 18901. If there are any changes in address, the EEOC will provide notice by certified mail to counsel for Conectiv. Within five (5) business days of mailing checks to Keith Riddick, James Slater, Roy Grimes and Jeffrey Campbell c/o Joanne Rathgeber, Esq., Conectiv will mail a copy of each check to the attention of Terrence R. Cook, Supervisory Trial Attorney, EEOC, 21 South Fifth Street, Suite 400, Philadelphia, PA 19106-2515. In order to receive this monetary relief, Keith Riddick, James Slater, Roy Grimes and Jeffrey Campbell must each execute a release satisfactory in form to Conectiv and to Keith Riddick, James Slater, Roy Grimes and Jeffrey Campbell.

NOTICE POSTING

7. Within twenty (20) business days after entry of the Consent Decree, Conectiv shall post at the Engineering and Construction Department located at the Engineering and Technology Center in Newark, Delaware and at all Conectiv Construction Sites (the development of any site with electric generating equipment with a total capacity equal to or greater than 125 megawatts) on all bulletin boards used by Conectiv for communicating with employees, same-sized copies of the Notice attached as Exhibit 2 to the Consent Decree. The Notice shall remain posted at the Engineering and Technology Center for the duration of the Consent Decree; the Notice shall remain posted at a Conectiv Construction Site until the earlier of: (a) the date on which the Conectiv employees monitoring the construction at the Conectiv Construction Site depart the Site, and (b) the duration of the Consent Decree. Within forty (40)

days after entry of the Consent Decree, Conectiv shall provide to the attention of Terrence R. Cook, Supervisory Trial Attorney, EEOC, 21 South Fifth Street Suite 400, Philadelphia, PA 19106-2515, confirmation that the Notice was posted at the Engineering and Construction Department and a list of any Conectiv Construction Site where the Notice was posted.

Thereafter, Conectiv shall provide periodic reports to the EEOC on the postings of the Notice as set forth in Paragraphs 18(b) and 18(c) of the Consent Decree. If a posting becomes defaced, removed, marred or otherwise illegible, Conectiv agrees to post a readable copy in the same manner as heretofore specified.

NON-DISCRIMINATION AND ANTI-HARASSMENT POLICIES AND COMPLAINT PROCEDURES

8. Conectiv shall adopt a written policy, drafted in plain and simple language, prohibiting racial and other unlawful harassment and unlawful retaliation against employees of contractors working on Conectiv Construction Sites (the "Policy"). Conectiv shall ensure that at a minimum the Policy includes the following:

- (a) states that Conectiv: (i) prohibits any act, policy or practice that has the effect of harassing or intimidating any contractor employee on the basis of race, sex, national origin, religion or color in violation of Title VII; (ii) prohibits any act, policy or practice that has the effect of creating, facilitating or permitting the existence of a work environment that is hostile to contractor employees through acts such as physical/verbal abuse and derogatory comments based on race, sex, national origin, religion or color in violation of Title VII; and (iii) prohibits retaliation against contractor employees for opposing employment practices they reasonably believe constitute harassment or for participating in an investigation by the

EEOC or a state or local governmental agency of a charge of harassment under Title VII.

- (b) includes a complaint procedure designed to encourage contractor employees to come forward with complaints regarding violations of the Policy, which at a minimum includes the following: (i) provides effective mechanism(s) for reporting incidents of harassment and/or retaliation to either the employer of the contractor employee or Conectiv; (ii) provides that the complaints of harassment and/or retaliation can be made either in writing or verbally; (iii) identifies Conectiv employees to whom a contractor employee can make a complaint; (iv) encourages prompt reporting by contractor employees; and (v) provides assurances that complainants shall not be subjected to retaliation;
- (c) provides for prompt investigation of complaints of harassment and/or retaliation by contractors and the reporting of the results of such investigation to Conectiv;
- (d) provides for prompt communication by contractors to the complaining party and to Conectiv of the results of the investigation and any remedial actions taken or proposed; and
- (e) provides for discipline up to and including discharge of any Conectiv employee who violates the Policy, and for actions within its control by Conectiv against contractor employees who violate the Policy, including barring any persons violating the Policy from a Conectiv Construction Site.

Conectiv shall distribute a copy of the Policy to any Conectiv employee assigned to work on a Conectiv Construction Site, and to all contractors working on a Conectiv Construction Site.

Acknowledgment of receipt forms will be made available for both employees and contractors.

Conectiv will retain copies of any acknowledgment of receipt form for a Conectiv employee in the employee's personnel file.

9. Within ninety (90) days after entry of this Consent Decree, Conectiv shall advise Terrence R. Cook, Supervisory Trial Attorney, EEOC's Philadelphia District Office, that the Policy has been adopted and that all Conectiv employees and contractors on Conectiv Construction Sites will receive these policies and have an opportunity to acknowledge receipt.

10. Conectiv shall once annually for the duration of the Consent Decree send a copy of the Policy to all Conectiv supervisory and/or management employees assigned to work on a Conectiv Construction Site (i.e., the Project Manager, Construction Manager, and Project Engineers) ("supervisory and/or management employees") and to all contractors working on Conectiv Construction Sites. The actions required of Conectiv with respect to contractors under this Paragraph and Paragraph 8 may be carried out either directly with each contractor or, in the case of a subcontractor, through the prime contractor of the subcontractor.

SUPERVISOR ACCOUNTABILITY

11. Conectiv shall promote accountability among its supervisory and/or management employees by the following conduct:

- (a) providing anti-discrimination training to all of its supervisory and/or management employees, as set forth in Paragraph 12.
- (b) disciplining, up to and including discharge, any supervisory and/or management employee who violates the Policy;

- (c) imposing on all supervisory and/or management employees a duty to administer their work areas on Conectiv Construction Sites to ensure compliance with the Policy; and
- (d) requiring all supervisory and/or management employees to report any violation of, or complaint of violation of, the Policy to Barbara Alexander, Assistant General Counsel, or her successor.

TRAINING

12. Conectiv shall provide training on the requirements of Title VII as follows:
- (a) Conectiv agrees to conduct a training session for any supervisory and/or management employees who is assigned to work at any Conectiv Construction Site , provided that the employee has not received such training during the prior twelve (12) months. Such additional training sessions shall occur at or around the time of the commencement of the construction at the Conectiv Construction Site.
 - (b) The training shall be on rights and obligations under both Title VII and applicable state or local anti-harassment laws and will emphasize what constitutes unlawful harassment and discrimination (including racial harassment) in the workplace, what constitutes unlawful retaliation, the Policy, and the complaint procedure for employees of contractors working on a Conectiv Construction Site to bring complaints for violations of the Policy. As part of the training, Conectiv will reiterate its commitment to preventing unlawful harassment (including racial harassment) at Conectiv Construction Sites.

(c) Conectiv shall obtain the EEOC's approval of its proposed trainer prior to the first year's training session. The approval of the trainer will be effective for subsequent training sessions for the duration of the Consent Decree unless the EEOC determines that the prior training did not comport with the terms of the Consent Decree. Within ten (10) business days of notification by Conectiv of the trainer's name and outline of the training session, EEOC will advise Conectiv whether or not the trainer is approved. If the EEOC denies approval of the trainer within the ten (10) business day period, the EEOC is required to provide Conectiv with a detailed explanation for the rejection. If the EEOC fails to respond within the ten (10) business day period, Conectiv can proceed with the trainer that it selected.

13. Conectiv agrees at its expense to provide the EEOC with copies of all pamphlets, brochures, outlines or other written materials provided to attendees of training sessions.

14. Conectiv shall certify to the EEOC in writing within ten (10) business days after the training sessions required by Paragraphs 12 (a) have occurred that the training has taken place and the personnel who attended. Such certification shall include: (i) the dates, location and duration of the training session; (ii) a copy of the registry of attendance, including the name and position of each person in attendance; and (iii) a listing of all supervisory and/or management employees assigned to work at a Conectiv Construction Site as of the date of the training.

RECORDKEEPING

15. For the duration of the Consent Decree, Conectiv shall document and retain records of each complaint of an incident of harassment on a Conectiv Construction Site based on race, and/or retaliation for filing a complaint of racial harassment on a Conectiv Construction Site, put forth by any contractor employee, reflecting the date the complaint was made, who made it, what was alleged and the actions, if any, Conectiv took to resolve the matter, and shall at its expense make such records available for inspection and copying by the EEOC.

16. Conectiv shall make all documents or records referred to in Paragraph 15 available for inspection and copying within ten (10) business days after the EEOC so requests in writing to Barbara Alexander, Assistant General Counsel, or her successor. In addition, Conectiv shall make available for interview all persons in its employ whom the EEOC reasonably requests for purposes of verifying compliance with the Consent Decree and shall permit a representative of the EEOC to enter Conectiv's premises for such purposes on ten (10) business days' advance notice by the EEOC.

17. Nothing in the Consent Decree shall be construed to limit any obligation Conectiv otherwise may have to maintain records under Title VII or any other law or regulation. After expiration of the Consent Decree, records will be maintained by Conectiv as required by law and EEOC regulations.

REPORTING

18. Conectiv shall furnish to the EEOC written reports once annually on the anniversary date of the entry of the Consent Decree for the duration of the Consent Decree. Each such report shall contain:

- (a) a summary of the information recorded by Conectiv pursuant to Paragraph 15, if any such complaints were filed, and to include the name of the complainant, the allegation of the complaint and any action taken by Conectiv in response;
- (b) a certification by Conectiv that the Notice required to be posted by Paragraph 7 was posted at the Engineering and Construction Department during the twelve (12) months preceding the report;
- (c) the location and date of posting of each Notice posted at a Conectiv Construction Site, as provided in Paragraph 7 above, during the twelve (12) months preceding the report;
- (d) a certification by Conectiv that it has or will distribute the Policy to Conectiv supervisory and/or management employees assigned to work on Conectiv Construction Sites and contractors working on those Sites;
- (e) a certification that Conectiv has complied with training requirements of this Consent Decree; and
- (f) a summary of any additional actions Conectiv took to prevent harassment and/or retaliation on Conectiv Construction Sites during the twelve (12) month period preceding the report.

DISPUTE RESOLUTION

19. In the event that either Conectiv or the EEOC believes that the other has failed to comply with any provision(s) of the Consent Decree, the complainant shall notify the other of the alleged non-compliance within ten (10) days of the alleged non-compliance and shall afford the alleged non-complying entity ten (10) business days to remedy the non-compliance or to satisfy

the complainant that the alleged non-complying entity has complied. If the alleged non-complying entity has not remedied the alleged non-compliance or satisfied the complainant that it has complied within ten (10) business days, the complainant may apply to the Court for appropriate relief.

MISCELLANEOUS PROVISIONS

20. Each party to the Consent Decree shall bear its own expenses, costs and attorney's fees.

21. The terms of the Consent Decree are and shall be binding upon the present and future representatives, agents, directors, officers, successors and assigns of Conectiv in their capacities as representatives, agents, directors and officers of Conectiv and not in their individual capacities. This paragraph shall not be construed as placing any limit on remedies available to the Court in the event any individual is found in contempt for a violation of the Consent Decree.

22. The terms of the Consent Decree shall be filed in the United States District Court for the Eastern District of Pennsylvania and shall continue in effect for the duration of the Consent Decree. During this time, the Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Consent Decree, including issuing such orders as may be required to effectuate its purposes. Any application by any party to modify or vacate the Consent Decree during such period shall be made by motion to the Court on no less than 30 days' notice to the other party. Should any material disputes under the Consent Decree remain unresolved after the duration of the Consent Decree, the term of the Consent Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Consent Decree) until such time as the Court determines all disputes have been resolved.

SO ORDERED:

By the Court: Thomas M. Golden
THOMAS M. GOLDEN, U.S.D.J.

Date: May 7, 2008

Exhibit 1

ALLOCATION OF SETTLEMENT

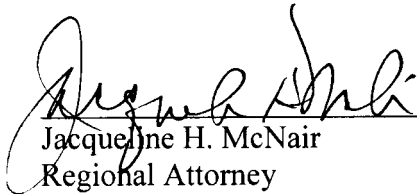
| | | |
|------------------|---|--------------|
| Jeffrey Campbell | - | \$166,666.66 |
| Roy Grimes | - | \$166,666.67 |
| Keith Riddick | - | \$166,666.67 |
| James Slater | - | \$250,000.00 |

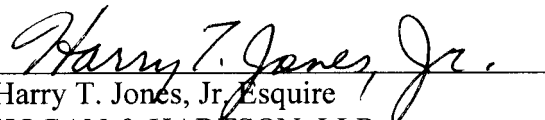
23. The Clerk of the District Court is hereby directed to send a file-stamped copy of the Consent Decree to counsel of record.

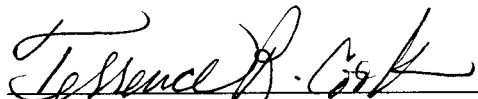
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(215) 440-2688
Counsel for Plaintiff EEOC

Dated: 5/5/08

**NOTICE TO CONECTIV EMPLOYEES AND
EMPLOYEES OF CONTRACTORS WORKING ON CONECTIV CONSTRUCTION SITES**

This Notice is posted pursuant to a Consent Decree entered by the federal court for the Eastern District of Pennsylvania in EEOC v. Conectiv, et al, Civil Action Number 05-3389, resolving a lawsuit filed by the Equal Employment Opportunity Commission (“EEOC”) against Conectiv and several other companies.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended (“Title VII”), prohibits discrimination against employees and applicants for employment based upon race, national origin, sex, color or religion. Title VII further prohibits retaliation against employees or applicants who avail themselves of the rights under Title VII by engaging in protected activities, such as filing a charge of discrimination and/or testifying or participating in a Commission investigation. The EEOC is the federal agency which investigates charges of unlawful employment discrimination. The EEOC has the authority to bring lawsuits in federal court to enforce Title VII.

In its lawsuit, the EEOC alleged, and Conectiv denied, that Black individuals employed by construction contractors on a Conectiv construction site were subject to harassment because of their race and Conectiv failed to prevent such harassment. The alleged harassment included, but was not limited to, racist graffiti in portable toilets on the construction site and derogatory comments from some contractors’ managers and co-workers, in violation of Title VII.

To resolve the case, Conectiv and the EEOC have entered into a Consent Decree which provided, among other things, that: (1) Conectiv pay monetary relief to the aggrieved individuals; (2) Conectiv shall not engage in any practice which operates to harass based on race employees of contractors working on the development of any site with electric generating equipment with a total capacity equal to or above 125megawatts (“ Conectiv Construction Site”); (3) Conectiv shall not retaliate against any person because he or she opposed any practice at a Conectiv Construction Site made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and (4) Conectiv will train all managers and supervisors assigned to work at Conectiv Construction Sites regarding harassment of, and retaliation against, contractor employees, and regarding its policy prohibiting such harassment or retaliation.

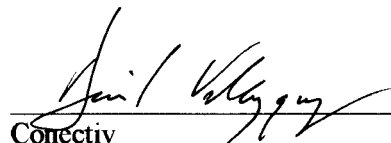
If you believe you have been discriminated against, you may contact the EEOC at (215) 440-2600. The EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for a period of four (4) years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to the: Regional Attorney, EEOC Philadelphia District Office, 21 South 5th Street, Philadelphia, PA 19106.



U.S. Equal Employment Opportunity
Commission



Conectiv

5/2/08

DATED

DATED