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UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

03 DEC 23 PM 7:20  
CLERK OF DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )

Plaintiff, )  
and )

COLLEEN FALKOWSKI )

Plaintiff Intervenor )

v. )

RARE HOSPITALITY INTERNATIONAL, )  
INC., d/b/a LONGHORN STEAKHOUSE )

Defendant. )

CIVIL ACTION FILE  
8:02 CV1770T 30TBM

2003 DEC 30 PM 3:46  
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**CONSENT DECREE**

1. This Consent Decree is entered into by and between Plaintiff, the Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC"), Plaintiff Intervenor, Colleen Falkowski (hereinafter referred to as "Plaintiff Intervenor" or "Ms Falkowski") and the Defendant, Rare Hospitality International, Inc., including its subsidiary, Rare Hospitality Management, Inc. d/b/a Longhorn Steakhouse (hereinafter referred to as "Defendant" or "Longhorn"). The Commission, the Intervenor, and Longhorn are collectively referred to as the "Parties".
2. The Commission filed this action on September 30, 2002 under Title VII of the Civil Rights Act of 1964 ("Title VII") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex (female), and retaliation and to provide appropriate relief to Colleen Falkowski, and other similarly situated individuals who were adversely affected by such practices.
3. The court granted Plaintiff-Intervenor's Motion to Intervene in the above-styled case. Plaintiff-Intervenor's Complaint alleged that Longhorn violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000(e) et seq. ("Title VII") and Title I of the Civil Rights Act of 1991, and various other causes of action grounded upon the Florida Civil Rights Act (FCRA) and the Florida Private Sector Whistle Blower Act.
4. In the interest of resolving this matter, to avoid the costs of litigation, and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that

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this action should be finally resolved by the entry of this Decree. This Decree is final and binding upon the Parties, their successors and assigns.

5. The parties agree that this Decree resolves all the claims against Defendant alleged in EEOC charge number 151 A1 0796 and civil action number 8:02-CV-1770-T-30TBM . The Parties further agree that this Decree does not resolve any Charges of Discrimination that may be pending with the EEOC other than the charge referred to in this paragraph.
6. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing, approved by all parties to this Decree and approved or ordered by the Court.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings filed by the parties, it is ORDERED, ADJUDGED AND DECREED THAT:

### **I. JURISDICTION**

7. This court has jurisdiction of the subject matter of this action and over the Parties for the purposes of entering and enforcing this Decree.
8. No party shall contest the jurisdiction of this Federal Court to enforce this Decree and its terms or the right of the EEOC to bring an enforcement suit upon breach of any terms of this Decree.

### **II. GENERAL PROVISIONS AND INJUNCTIVE RELIEF**

9. The Defendant, its officers, managers, employees, agents, partners and assigns, are enjoined from engaging in any conduct which violates Title VII by adversely affecting the terms and conditions of any individual's employment because of their sex.
10. Defendant, its officers, managers, employees, agents, partners and assigns, shall not discriminate against any individual who opposes any of Defendant's practices which the employee believes to be unlawful employment discrimination, who files a charge of discrimination with the EEOC alleging violations of the Statutes the Commission enforces; who cooperates with the EEOC in investigation and /or prosecution of any charge of discrimination; or who cooperated in the investigation or who offered testimony or information in the above styled litigation which resulted in this Consent Decree.

### **III. DEVELOPMENT OF POLICES AND TRAINING**

11. Defendant has established a written sexual harassment and retaliation policy which is attached hereto as Exhibit A. A complete copy of this policy will be distributed to all its current employees at the Dale Mabry and Citrus Park facilities in the State of Florida by

December 30, 2003. Defendant further agrees that all new employees will be provided a copy of the policy within one week of employment.

12. In order to further ensure the effective implementation of Defendant's anti-discrimination policies, Defendant will conduct an eight (8) hour annual training throughout the duration of this Decree for all of its managers and supervisory personnel at the Dale Mabry and Citrus Park facilities in the State of Florida, with specific emphasis on recognizing sexual harassment and acts that constitute unlawful retaliation and the proper procedure to be followed if they become aware of sexual harassment or retaliation in the workplace and/or if they receive a complaint of such harassment or retaliation for complaining about sexual harassment. Defendant agrees to provide the EEOC with at least two (2) weeks notice before it conducts its training session(s), with the date(s) and location(s) of the training, the identification of the training materials to be used at the training session, and the name and job title of the employees who will be in attendance at the training. The training will be conducted by Lisa L. Ballentine, Esq. or any similarly qualified party approved by the EEOC. Additionally, Defendant agrees that the EEOC may, at the EEOC's discretion, be in attendance at each training session(s).
13. Defendant agrees that the training described in paragraph 12 shall be conducted by March 30, 2004, and should thereafter take place by July 30<sup>th</sup> annually in the same format for the duration of this Decree. Defendant further agrees that the training described in paragraph 12 shall be given to all new managers and supervisors who did not attend the annual training within thirty (30) days of being placed in a management or supervisory position.

#### **IV. POSTING**

14. Defendant shall post a laminated 11X17 size copy of the notice attached hereto as Exhibit B within 7 days of the entering of this decree. Said notice shall be posted in conspicuous locations accessible to all employees. ( i.e. break room, employee bulletin board, cafeteria, above water fountains, etc). This notice is to remain posted for the term of this Decree. If the demographics of the workforce so necessitates such policy shall be posted in Spanish and/or Creole in addition to the English version.

#### **V. REPORTING AND MONITORING**

15. Defendant will retain all employment records relating in any way to any complaint made to a supervisor, manager or human resource officer and to any investigation of sexual harassment or retaliation for complaining of sexual harassment at Defendant's Dale Mabry and Citrus Park facilities in the State of Florida for the duration of this Decree and as required by federal law.
16. For the duration of this Decree, Longhorn will provide the EEOC every six (6) months with the name, last known address and last known phone number of any person employed at Defendant's Dale Mabry and Citrus Park locations who has complained to his or her Manager/Supervisor, Human Resources Department, or the President that he or she has been subjected to sexual harassment or retaliation while working at Defendant's Dale

Mabry and Citrus Park locations during the preceding six (6) months. Defendant will also state its actions taken in response to each such allegation. The first report shall be submitted no later than March 31, 2004, Longhorn will provide upon request by the Commission (a) a copy of the complaint, or if no written complaint was filed, a statement describing the nature of the complaint; (b) a statement describing the actions taken; and (c) outcome regarding such complaint.

17. Defendant will certify to the EEOC every six (6) months throughout the duration of this Decree that it is in compliance with all aspects of this Decree. The first such certification will be due no later than March 31, 2004, and thereafter biannually on September 30<sup>th</sup> and March 31<sup>st</sup> throughout the duration of this consent decree.
18. The Defendant will appoint one individual who shall be responsible for coordinating Defendant's compliance with this Consent Decree and for providing reports to the EEOC. This person shall be appointed and the EEOC notified of his or her identity within 15 days of the Court's approval of this Consent Decree. All reports and documents required to be delivered by Defendant to the EEOC pursuant to this Consent Decree shall be mailed to: United States Equal Employment Opportunity Commission, Attention : Office of the Regional Attorney, 1 Biscayne Tower Building Suite 2700, 2 South Biscayne Blvd, Miami, FL 33131

#### **VII. MONETARY RELIEF**

19. Defendant shall pay a lump sum in the amount of two hundred thousand dollars (\$200,000) in resolution of this litigation. The monies shall be distributed as set forth below:
  - a. Two thousand five hundred dollars (\$ 2,500) shall be representative of lost wages for Ms. Colleen Falkowski, less amounts required to be withheld for federal, state, and local income taxes. Defendant will also issue an IRS form and W-2, and shall be responsible for the payment of the employer's share of any federal, state and local, income taxes, and social security withholdings.
  - b. One hundred forty seven thousand five hundred dollars (\$147,500) shall be representative of compensatory damages for Ms. Colleen Falkowski and attorney fees. Defendant shall issue the check in the amount of \$147,500 to Colleen Falkowski and the Shanafelt Law Firm, P.A. The check shall be mailed to the Shanafelt Law Firm at 4610 Central Avenue, St. Petersburg, FL 33311. The Defendant may issue a 1099 to the Shanafelt Law Firm, P.A. for this amount.
  - c. Thirty thousand dollars (\$30,000) shall issue to Gina Leonard. Twenty nine thousand seven hundred and fifty dollars (\$29,750) is representative of compensatory damages and two hundred and fifty dollars (\$250) shall be representative of attorney fees Ms. Leonard incurred in connection with

this litigation. Defendant will also issue an I.R.S. form 1099 to Ms. Gina Leonard substantiating same.

- d. Twenty thousand dollars (\$20,000) shall issue to Ms. Danielle Linville. Nineteen thousand seven hundred and fifty dollars( \$19,750) is representative of compensatory damages and two hundred and fifty dollars (\$250) shall be representative of attorney fees Ms. Linville incurred in connection with this litigation. Defendant will also issue an I.R.S. form 1099 to Ms. Danielle Linville substantiating same.
- e. All payments referenced in paragraphs 19a-d shall issue within fifteen (15) calendar days from the Court's execution of this Decree, by certified mail in the name of: "Colleen Falkowski and Randall Shanafelt, PA, her attorney;" "Ms. Gina Leonard", "Ms. Danielle Linville"; and forwarded to Randall V. Shanafelt, Esq. The Shanafelt Law firm, 4610 Central Avenue, Suite C, St. Petersburg, FL 33711. Copies shall be forwarded to the attention of Jennifer Brown, Trial Attorney, U.S. Equal Employment Opportunity Commission, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

- 20. If Defendant fails to tender the above-mentioned payments as set forth in paragraph 19 above, then Defendant shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. Section 6621(b) until the same is paid, and bear any additional costs incurred by the EEOC caused by the non-compliance of the Defendant.

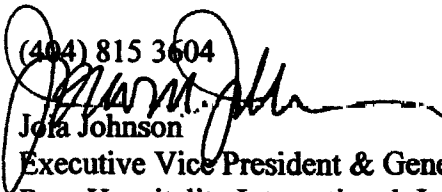
#### **VIII. ENFORCEMENT**

- 21. The Commission shall have independent authority to seek judicial enforcement of each aspect, term, provision and attachment of this Decree. However, the EEOC shall not seek such judicial enforcement unless it has first (1) given Defendant a written notice of its intention to seek judicial enforcement, which notice shall specify the alleged breach for which judicial enforcement shall be sought and (2) provided Defendant at least 15 days to cure any alleged breach of any terms, except the provisions set forth in paragraph 19 entitled monetary relief, for which court enforcement may be sought immediately. The Commission will take whatever measures it deems appropriate to effectuate the enforcement of the terms of this decree.
- 22. The court will take whatever measures necessary to effectuate the terms of this Decree.

#### **IX. COSTS**

- 23. Each party shall bear its own costs and attorney's fees associated with this litigation from the monetary relief provided in this Decree.

(404) 815 3604

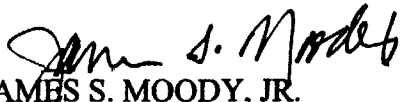
  
Jola Johnson

Executive Vice President & General Counsel  
Rare Hospitality International, Inc.  
8215 Roswell Road, Bldg, 500  
Atlanta, GA 30350

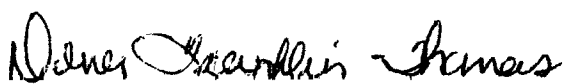
Date: 12-19-03

**X. DURATION OF CONSENT DECREE**

24. The duration of this Decree shall be three (3) years from the date of entry of the Decree. SO ORDERED ADJUDGED AND DECREED, this 30 day of December 2003.

  
JAMES S. MOODY, JR.  
UNITED STATES DISTRICT JUDGE

AGREED TO:  
FOR THE PLAINTIFF,  
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

by:   
Delner Franklin-Thomas  
Regional Attorney  
U.S. Equal Employment Opportunity Commission  
Miami District Office  
One Biscayne Tower, Suite 2700  
2 South Biscayne Boulevard  
Miami, Florida 33131

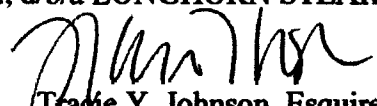
Date: 12-22-03

AGREED TO:  
FOR THE PLAINTIFF-INTERVENORS  
COLLEEN FALKOWSKI

by:   
Randall V. Shanafelt  
The Shanafelt Law firm  
4610 Central Avenue, Suite C  
St. Petersburg, FL 33711  
Attorney's for the Intervenor

Date: 12/23/03

AGREED TO:  
FOR THE DEFENDANT  
RARE HOSPITALITY INTERNATIONAL  
INC., d/b/a LONGHORN STEAKHOUSE

by:   
Tracie Y. Johnson, Esquire  
Smith Gambrell & Russell, LLP  
Suite 3100 Promenade II  
1230 Peachtree St. NE Suite 3100  
Atlanta, GA 30309

Date: 12/19/03

## **EXHIBIT A**

## EXHIBIT A

### Harassment Policy

Sexual harassment and harassment on the basis of an individual's race, color, religion, gender, sexual orientation, national origin, age, or disability will not be tolerated at RARE HOSPITALITY INTERNATIONAL, INC. This includes harassment by supervisors, team members, vendors, and Guests. Any team member who engages in any action or conduct constituting harassment will be subject to appropriate disciplinary action, up to and including termination.

Harassment may take many forms. Sexual harassment may include promises of benefits in exchange for sexual favors, threats of reprisal for refusal to engage in social or sexual relations, and sexually suggestive and offensive language. The following behavior may be grounds for disciplinary action:

- Abusing the dignity of a team member through insulting or degrading sexual remarks or conduct;
- Threats, demands, or suggestions that a team member's refusal to submit to sexual advances will adversely affect his or her employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development; and
- Retaliation against a team member for complaining about the behavior described above.

Other prohibited harassment may be verbal or physical conduct that defames or shows hostility toward a team member because of his or her race, color, religion, gender, sexual orientation, national origin, age, or disability or that of his or her relatives, friends, or associates and that: (1) has the purpose or effect of creating an abusive or hostile work environment; (2) has the purpose or effect of unreasonably interfering with a team member's work performance; or (3) otherwise adversely affects a team member's employment opportunities. Such harassment may include, but is not limited to, the following:

- Epithets, slurs, stereotyping, intimidating, threatening, or any hostile act that relates to race, color, religion, gender, sexual orientation, national origin, age, or disability; and
- Written or graphic material that defames or shows hostility or aversion toward an individual or group because of race, color, religion, gender, sexual orientation, national origin, age, or disability.

All complaints of harassment should be reported to one of your managers, your Regional Manager, or a Human Resources Representative (800-434-6245). The important thing is that you talk to someone who can help, since we cannot protect you from such behavior if we are unaware that it is occurring. Every complaint will be investigated and appropriate action taken in accordance with this policy.

All team members are required to join the company in implementing this policy. All complaints of harassment, as well as the investigation of such complaints, will be kept as confidential as reasonably possible.

## **EXHIBIT B**

### **NOTICE TO ALL EMPLOYEES POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND RARE HOSPITALITY INTERNATIONAL, INC.**

This notice is being posted pursuant to a Consent Decree entered by the Court in EEOC vs. Rare Hospitality International d/b/a Longhorn Steakhouse, Civil Action No. 8:02-CV-1770-T-30TBM. Rare Hospitality International's policy prohibits discrimination against employees in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Title VII protects individuals from employment discrimination because of their race religion, color, national origin, or sex. Title VII also protects individuals from retaliation for having complained of an unlawful employment practice. Rare will not condone employment discrimination of any kind as set forth in federal anti-discrimination laws, including, but not limited to, sexual harassment.

Furthermore, Rare Hospitality International, supports Title VII and will not take any retaliatory action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with the EEOC.

Appropriate corrective action, up to and including termination, based upon the circumstances involved, shall be taken against any employee (including management personnel) found to have violated Rare Hospitality International's policies prohibiting discrimination.

This notice shall remain posted for three (3) years from the date Decree entered. Employees or applicants for employment who have questions about their rights under Title VII or any other federal anti-discrimination law may telephone Rare Hospitality International's Human Relations Department at 1-800-434-6245 or the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2003.

PRESIDENT/CEO, Rare Hospitality International

DO NOT REMOVE BEFORE \_\_\_\_\_, 2006.

F I L E C O P Y

Date Printed: 12/30/2003

Notice sent to:

— Carla J. Von Greiff, Esq.  
Equal Employment Opportunity Commission  
Tampa Area Office  
501 E. Polk St., Suite 1020  
Tampa, FL 33602

8:02-cv-01770 eec

— Nicholas M. Inzeo, Esq.  
Equal Employment Opportunity Commission  
Miami District Office  
One Biscayne Tower  
2 S. Biscayne Blvd., Suite 2700  
Miami, FL 33131

8:02-cv-01770 eec

— Delner Franklin-Thomas, Esq.  
Equal Employment Opportunity Commission  
Miami District Office  
One Biscayne Tower  
2 S. Biscayne Blvd., Suite 2700  
Miami, FL 33131

8:02-cv-01770 eec

— Michael J. Farrell, Esq.  
Equal Employment Opportunity Commission  
Miami District Office  
One Biscayne Tower  
2 S. Biscayne Blvd., Suite 2700  
Miami, FL 33131

8:02-cv-01770 eec

— Jennifer N. Brown, Esq.  
Equal Employment Opportunity Commission  
Miami District Office  
One Biscayne Tower  
2 S. Biscayne Blvd., Suite 2700  
Miami, FL 33131

8:02-cv-01770 eec

— Gwendolyn Y. Reams, Esq.  
Equal Employment Opportunity Commission  
Miami District Office  
One Biscayne Tower  
2 S. Biscayne Blvd., Suite 2700  
Miami, FL 33131

8:02-cv-01770 eec

— Richard M. Hanchett, Esq.  
Trenam, Kemker, Scharf, Barkin,  
Frye, O'Neill & Mullis, P.A.  
101 E. Kennedy Blvd., Suite 2700  
P.O. Box 1102  
Tampa, FL 33601-1102

8:02-cv-01770 eec

— Richard K. Fueyo, Esq.  
Trenam, Kemker, Scharf, Barkin,  
Frye, O'Neill & Mullis, P.A.  
101 E. Kennedy Blvd., Suite 2700  
P.O. Box 1102  
Tampa, FL 33601-1102

8:02-cv-01770 eec

— Lisa L. Ballentine, Esq.  
Smith, Gambrell & Russell  
1230 Peachtree St., NE  
3100 Promenade II  
Atlanta, GA 30309-3592

8:02-cv-01770 eec

— Tracie Y. Johnson, Esq.  
Smith, Gambrell & Russell  
1230 Peachtree St., NE  
3100 Promenade II  
Atlanta, GA 30309-3592

8:02-cv-01770 eec

— Randall V. Shanafelt, Esq.  
Shanafelt Law Firm, P.A.  
4610 Central Ave., Suite C  
St. Petersburg, FL 33711

8:02-cv-01770 eec

— Sharon A. Wey, Esq.  
Shanafelt Law Firm, P.A.  
4610 Central Ave., Suite C  
St. Petersburg, FL 33711

8:02-cv-01770 eec

— Cary R. Singletary  
Cary R. Singletary, P.A.  
509 E. Jackson St.  
Tampa, FL 33602

8:02-cv-01770 eec