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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff.)
)
v.) No. CIV-06-94 RB/LFG
)
ALL AMERICAN MEAT, INC.,)
d/b/a FARMERS COUNTRY MARKET,)
)
Defendant.)

The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action against All American Meat, Inc. d b/a Farmers Country Market ("All American" or "defendant") to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII") and the Civil Rights Act of 1991, 42 U.S.C. § 1981a. In the complaint, the Commission alleged that Brandy F. Rivera was subjected to sexual harassment at Farmers Country Market in violation of Title VII. The Commission also alleged that defendant retaliated against Brandy F. Rivera by discharging and/or constructively discharging Ms. Rivera for complaining about the sexual harassment. Further, the Commission alleged defendant failed to post and keep posted notices required pursuant to Title VII.

The parties do not object to the jurisdiction of the Court over this action and waive their rights to a hearing and the entry of findings of fact and conclusions of law. This decree does not constitute an admission of liability by All American Meat, Inc. d/b/a Farmers Country Market, nor an adjudication on the merits of the allegations of the complaint. All American Meat, Inc., d/b/a Farmers Country Market expressly denies that it discriminated or retaliated against any party on any

21.

basis under Title VII.

It is hereby **ORDERED, ADJUDGED AND DECREED:**

1. This decree resolves all claims of the Commission against defendant on behalf of Brandy F. Rivera, including claims for back pay, compensatory and punitive damages, interest, injunctive relief, attorney's fees and costs arising out of the issues in this lawsuit.

INJUNCTION

2. Defendant, its managers, agents, officers, employees, successors and assigns and all persons in active concert or participation with it, are permanently enjoined for the duration of the decree from discriminating against any employee because of his or her sex, including sexual harassment. Defendant, its managers, agents, officers, employees, successors and assigns and all persons in active concert or participation with it, are also permanently enjoined from retaliating against any employee who: (a) opposes practices made unlawful by Title VII or a state equal employment opportunity statute; (b) makes a charge of discrimination or assists or participates in an investigation or proceeding under Title VII or a state equal employment opportunity statute; or (c) files an internal complaint of discrimination. This injunction will remain in effect for the duration of the decree at any facility operated by defendant in New Mexico.

RELIEF TO CHARGING PARTY

3. In accordance with this decree, defendant shall pay Brandy F. Rivera the total amount of thirty seven thousand five hundred dollars and zero cents (\$37,500.00) as compensatory damages.

4. Defendant shall pay the settlement amount within five (5) days of entry of the decree. Defendant shall mail the check, via certified mail, to Ms. Rivera at the address provided by the EEOC. Within five days of the mailing of the check, defendant will submit a copy of the check

and related correspondence to the Regional attorney, Equal Employment Opportunity Commission, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189. Defendant or its insurer will issue a United States Internal Revenue Service Form 1099 to Ms. Rivera for the amount designated as compensatory damages.

5. In accordance with defendant's representation of its policy, in response to any employment inquiries or reference checks directed to defendant concerning Brandy F. Rivera, defendant will provide a neutral reference for Ms. Rivera and report her dates of employment, position held, job duties and salary. This provision shall remain in force for so long Ms. Rivera uses defendant as a reference and is not limited to the three (3) year duration of this decree.

6. Defendant shall not take any action against Brandy F. Rivera or any other individual in retaliation for filing a charge of employment discrimination or for participating, assisting or testifying in this action.

DEFENDANT'S CORRECTIVE POLICIES AND PRACTICES

7. Defendant shall institute and carry out policies and practices that will provide a work environment free from sex discrimination, including policies, procedures and practices to prevent sexual harassment of its employees and other individuals, and that allow employees and other individuals to raise concerns or complaints about matters made unlawful by Title VII, whether alleged, perceived or actual, without retaliation. To assist defendant in its effort to provide a work environment free of sex discrimination, including sexual harassment, and retaliation, defendant shall take the actions provided for in Paragraphs 8, 9, 12 and 13.

8. Within sixty (60) days of the entry of this decree, defendant shall review any existing policies on sex discrimination, including sexual harassment, and retaliation and make any changes

necessary so that its policies and procedures comply with Title VII. Should defendant not currently have an existing policy prohibiting sexual harassment and an effective reporting procedure, within forty five (45) days of entry of this decree defendant shall implement an effective anti- harassment policy and procedure to receive employee complaints of harassment based on sex. Defendant shall ensure its written policy includes a statement that employees are encouraged to complain directly to EEOC or any state equal opportunity agency. Within fifteen (15) days of reviewing and making any necessary revisions to its policy, or implementing an effective anti-harassment policy and procedure, defendant shall distribute the revised sexual harassment policy and complaint procedure to each of its current full and part-time employees, and to each new employee hired for the duration of this decree. The policy and procedure statements that are provided to defendant's employees should be designed to present easily understood, convenient, consistent, confidential and reliable procedures for reporting incidents of sexual harassment and retaliation in defendant's New Mexico facilities. These procedures, at a minimum, shall include provisions incorporating the following:

- A. Defendant shall designate at least one employee in a supervisory or managerial position to serve as investigative officer for sexual harassment issues.
- B. The name, responsibilities, work location, and telephone number of the investigative officer will routinely and continuously be posted and provided to all employees so that an employee seeking such name can enjoy anonymity and remain inconspicuous to other employees.
- C. Complaints of sexual harassment or retaliation will be accepted in writing or orally and all complaints will be taken seriously and investigated.
- D. Only those who have an immediate need to know, including the investigative

officer(s), the alleged target of harassment or retaliation, the alleged harasser(s) or retaliator(s) and any witnesses, may find out the identity of the complainant.

- E. During an investigation of a sexual harassment complaint of an employee, the investigative officer shall immediately interview all affected employees and potential witnesses to the alleged harassment.
- F. All parties contacted in the course of an investigation will be advised that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint, or who has provided evidence in connection with a complaint will not be tolerated and could result in disciplinary action.
- G. Each investigative officer will receive thorough and appropriate training about sexual harassment and retaliation. This training shall consist of at least four (4) hours in addition to that provided under paragraph 12 of this decree.
- H. Each investigative officer will have the responsibility for expeditiously investigating all complaints.
- I. The investigative officer will recommend remedial measures, if appropriate, based upon the results of the investigation, and defendant will promptly consider and act upon such recommendation.
- J. The investigative officer will maintain a file on the original complaint(s) and any follow-up investigation.

9. Defendant's owners, stockholders, managers, officials, agents or employees who engage in sexual harassment or retaliation; who fail to cooperate with company-sponsored investigations of sexual harassment or retaliation; or who refuse to implement remedial measures will be advised that they may be sanctioned severely by loss of income, suspension or dismissal.

POSTING

10. Defendant shall post in prominent places frequented by employees of defendant's New Mexico facilities, the Notice attached to this decree as Exhibit A. This Notice shall be the same type, style and size as in Exhibit A. This provision shall survive the expiration of this decree.

11. Within thirty (30) days of entry of this decree, defendant shall post and keep posted notices which have been prepared or approved by the Commission setting forth excerpts from or summaries of the pertinent provision of Title VII and information pertinent to the filing of a charge or complaint. This provision shall survive the expiration of this decree.

TRAINING

12. Defendant shall provide training on sex discrimination, including sexual harassment, and retaliation according to the following terms:

- A. Defendant shall provide at least four (4) training sessions during the term of this decree. All managers, supervisors and employees at New Mexico facilities owned or operated by defendant, shall attend the training. Duplicative sessions may be held to accommodate staffing needs. Defendant shall be responsible for all costs associated with this training.
- B. During the first year of the decree, the first training session shall be conducted within three (3) months of entry of this decree. The second training session shall be conducted within nine (9) months of entry of this decree. Additional training shall be conducted once each remaining year of this decree.
- C. Defendant shall select a qualified trainer and shall submit the trainer's name, resume, training agenda and the date(s) of the proposed training to the Regional Attorney of the Albuquerque Area Office of the Equal Employment Opportunity Commission within forty-five (45) days of the entry of this decree. During the second and third

years of the decree, the above information shall be submitted to the Regional Attorney at least sixty (60) days prior to the seminar-training session. The Commission shall have thirty days from the date of receipt of the information described above to accept or reject the proposed consultant/lecturer and/or the contents of the seminar. In the event the Commission does not approve defendant's designated consultant/lecturer, the Commission shall designate the consultant/lecturer at a cost not to exceed \$1000.00 per seminar-training session which shall be paid by defendant.

- D. The training shall include a minimum of four (4) hours of instruction. All personnel, designated in Paragraph A shall both register and attend the training. The registry of attendance shall be retained by defendant at least for the duration of the decree.
- E. The training, at a minimum shall include the subjects of: what constitutes sex discrimination, including sexual harassment, and retaliation; that sex discrimination in the hiring, firing, compensation, assignment or other terms, conditions or privileges of employment and retaliation violates Title VII; how to prevent sex discrimination and retaliation; how to provide a work environment free from sex discrimination, sexual harassment, and retaliation; and to whom and by what means employees may complain if they feel they have been subjected to sex discrimination, sexual harassment or retaliation in the workplace.
- F. Immediately following the training sessions, defendant's highest ranking management official shall speak to the employees about: (1) potential discipline that can be taken against owners, stockholders, supervisors, managers and employees who commit acts of sex discrimination or retaliation or who allow sex discrimination or

retaliation to occur in the workplace; (2) the importance of maintaining an environment free of sex discrimination and retaliation; and (3) the employer's policies regarding sex discrimination, sexual harassment and retaliation. This time shall not be counted toward the four-hour minimum training required in paragraph 12.D.

G. For the duration of this decree, at or around the time of hire, employees hired after the annual training is presented, shall view a video tape of the training and/or a professional training tape which covers the topics set forth in paragraph 11.E. and shall be given any written material disseminated at the training.

13. The Commission, at its discretion, may designate Commission representatives to attend and participate in the training sessions described above.

REPORTING BY DEFENDANT AND ACCESS BY EEOC

14. Defendant shall report in writing and in affidavit form to the Regional Attorney of the Commission's Albuquerque Area Office at 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189, every six months during the first year from the date of entry of this decree, and then every twelve (12) months during the second and third years of this decree the following information:

A. Any changes, modifications, revocations, or revisions to its policies and procedures which concern or affect the subject of sex discrimination, sexual harassment, and retaliation.

B. The name, address, position, social security number and telephone number of any employee who during the six months preceding the report during the first year of the decree, and during the 12 months preceding the report during the second and third years of the decree, has brought allegations of sex discrimination, sexual harassment,

or retaliation arising from activities in defendant's New Mexico facilities against defendant or its personnel. The nature of the complaint, investigatory efforts made by defendant and the corrective action taken, if any, shall be specified.

C. The registries of persons attending each of the seminar-training sessions required in paragraph 12 of this decree and a list of current employees on the day of the seminar-training session.

D. An affidavit by defendant stating: (1) the Notices required in paragraphs 10 and 11 of this decree were posted and the locations where they were posted, and (2) it has complied with paragraphs 8, 9, 12 and 14 of this decree.

15. The Commission upon reasonable notice shall have the right to enter and inspect the premises of defendant's New Mexico facilities to insure compliance with this decree and federal anti-discrimination laws.

COSTS AND DURATION


16. Each party shall bear its costs and attorney's fees incurred as a result of this action through the entry of this decree.

17. The duration of this decree shall be three (3) years from its entry. This Court shall retain jurisdiction of this action for the duration of the decree, during which the Commission may petition this Court for compliance with this decree. Should the Court determine that defendant has not complied with this decree, appropriate relief, including extension of this decree for such period as may be necessary to remedy its non-compliance, may be ordered.

18. This decree shall expire by its own terms at the end of three (3) years after entry, without further action by the parties.

19. The parties agree to entry of this decree and judgment subject to final approval by the Court.

ENTERED AND ORDERED this 7 day of Aug. 2006.



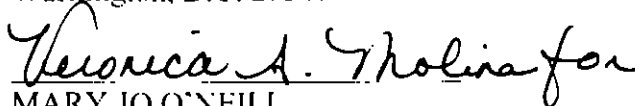
HONORABLE ROBERT BRACK
UNITED STATES DISTRICT JUDGE

APPROVED AND CONSENTED TO:

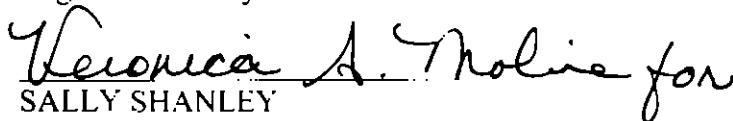
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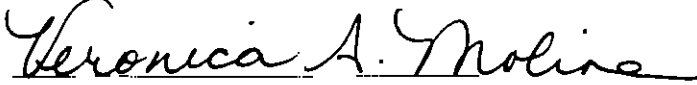


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**NOTICE TO ALL EMPLOYEES OF
FARMERS COUNTRY MARKET**

It is unlawful under the federal law (Title VII of the Civil Rights Act of 1964) and state law to discriminate against an employee on the basis of sex in hiring, firing, compensation or other terms, and conditions or privileges of employment, including sexual harassment.

Farmers Country Market prohibits all forms of sex discrimination, including sexual harassment. Prohibited sexual harassment includes, but is not limited to, the following conduct:

1. unwelcome touching of a sexual nature;
2. unwelcome comments, including comments regarding intimate body parts, or clothing and discussion of sexual jokes or sexual behavior;
3. unwelcome requests for dates, sexual favors and propositions;
4. unwelcome distribution in the workplace of cartoons, pictures or drawings of a sexual nature; and
5. unwelcome display of pornographic materials in the workplace.

Farmers Country Market shall not discriminate on the basis of sex and shall not retaliate against any employee who opposes a practice made unlawful under federal law, files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII, or who files a grievance alleging discrimination.

If you believe you are being sexually harassed or retaliated against you should report this to the designated investigative officer at your workplace who may be contacted at _____

If you believe you have been discriminated against or retaliated against by Farmers Country Market, you always have the right to seek assistance from:

- 1) Equal Employment Opportunity Commission (EEOC), 505 Marquette, Suite 900, Albuquerque, New Mexico 87102, 1-800-669-4000.
- or
- (2) New Mexico Department of Labor, Human Rights Division, 1596 Pacheco St., Suite 103, Santa Fe, New Mexico 87505. 505) 827-6838.

You have the right to file a charge with the EEOC or the Department of Labor if you believe you are being discriminated against.

EXHIBIT A