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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11

12 <b>EQUAL EMPLOYMENT OPPORTUNITY</b>	)	Civil Action No. C-06-2974 JSW
13 <b>COMMISSION,</b>	)	
14   Plaintiff,	)	<b>CONSENT DECREE</b>
15 v.	)	
16 <b>BALLY TOTAL FITNESS CORPORATION,</b>	)	
17   Respondent.	)	
18 _____	)	

19           Plaintiff Equal Employment Opportunity Commission (“Commission”) filed this action  
20 under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to  
21 correct alleged unlawful employment practices on the basis of national origin (Indian) and/or  
22 religion (Sikh), and to provide appropriate relief to Sukhdev Dhaliwal whom the Commission  
23 alleged was adversely affected by such practices. The Commission alleged that Defendant Bally  
24 Total Fitness Corporation (“Bally”) subjected Mr. Dhaliwal to discrimination based on his  
25 national origin and/or religion, in violation of Title VII. Defendant has denied and continues to  
26 deny the Commission’s allegations concerning liability and damages. The Commission and  
27 Defendant Bally now seek to resolve this action as to each other and as between Bally and  
28 Sukhdev Dhaliwal (“Charging Party”) without further contested litigation through the instant

1 Consent Decree. This resolution does not constitute an admission of liability on the part of  
2 Bally, nor constitute a finding on the allegations stated in the Commission’s Complaint.

3 The Court has reviewed this Consent Decree in light of the pleadings, the record herein,  
4 and the applicable law, and now approves this Consent Decree.

5 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

6 **GENERAL PROVISIONS**

7 1. This Court has jurisdiction over the subject matter and the parties to this action.  
8 This Court retains jurisdiction over this Consent Decree during its term.

9 2. This Consent Decree constitutes a full and final resolution of the Commission’s  
10 claims against Bally in this action.

11 3. This Consent Decree will become effective upon its entry by the Court, and will  
12 expire according to its terms and without the need for further action by the Court or parties.

13 4. This Consent Decree is final and binding upon the parties to it, their successors  
14 and assigns.

15 5. The Commission and Bally will each bear its own costs and attorneys fees in this  
16 action.

17 **GENERAL INJUNCTIVE RELIEF**

18 6. Bally’s current managers and supervisors at the Fresno Area Clubs<sup>1</sup> will comply  
19 with all requirements of Title VII with respect to lawful hiring practices.

20 7. Bally’s current managers and supervisors at the Fresno Area Clubs agree not to  
21 retaliate against Charging Party, or any other person, for participating in any manner in the  
22 Commission’s investigation and the proceedings in this case.

23 **SPECIAL INJUNCTIVE RELIEF**

24 **Training**

25 \_\_\_\_\_  
26 <sup>1</sup>The five “Fresno Area Clubs” are:  
27 1. Clovis, 781 W. Shaw Ave., Clovis, CA 93612  
28 2. Blackstone & Shaw, 5137 N. Blackstone Ave, Fresno, CA 93710  
3. First & Herndon, 6735 North First St., Herndon Village Shopping Center, Fresno, CA  
93710  
4. Shaw & Blythe, 4308 W. Shaw Ave., Shaw View Plaza, Fresno, CA 93722  
5. Madera, 2330 W. Cleveland Ave., Hallmark Towne Center, Madera, CA 93637

1           8.       Bally will use an outside consultant, paid for by Bally, to provide equal  
2 employment opportunity training concerning lawful hiring practices to current managers and  
3 supervisors at the five Fresno Area Clubs during the twelve (12) month term of this Consent  
4 Decree, such term to be measured from the entry of this Consent Decree. The training will  
5 specifically include the subject of avoiding discrimination based on national origin and religion in  
6 the hiring process.

7           9.       If Connie Gordeau is no longer employed with the Fresno Area Clubs, but  
8 continues to be employed by Bally during the term of this Consent Decree, Bally will ensure that  
9 Ms. Gordeau attends the trainings, or is given equivalent training at the location where she is  
10 employed.

11           **Record Keeping and Reports**

12           10.       Within sixty (60) days after completing each training session described in  
13 paragraphs 8 and 9, Bally will mail to counsel for the Commission a report containing the name  
14 of the individual or organization which did the training, the date of training, an outline of the  
15 training content, a list of all attendees and their job titles, and copies of pertinent materials  
16 distributed at the training.

17           11.       At least two times during the term of this Consent Decree, Bally will notify  
18 counsel for the Commission whether it has received notice of any formal, written complaints of  
19 hiring discrimination based on national origin or religion from employees or applicants for  
20 employment in the Fresno Area Clubs, what steps were taken in response to the complaint(s), and  
21 how the situation was resolved. For purposes of this paragraph, the term “formal” means filed  
22 with an administrative agency.

23           **MONETARY RELIEF**

24           12.       Bally will pay the total sum of \$24,000.00, to Charging Party Sukhdev Dhaliwal as  
25 monetary damages in complete satisfaction of the Commission’s claims against Bally as set forth  
26 in its Complaint. This sum will be paid by check directly to Charging Party within fifteen (15)  
27 business days of the entry of this Consent Decree, and will be mailed to him via certified mail at  
28 an address to be provided to Bally by the Commission. A copy of said check and any transmittal

1 letter will be sent to Commission counsel Cindy O'Hara at the San Francisco District Office of  
2 the Commission.

3 **SCOPE AND EXPIRATION OF CONSENT DECREE**

4 13. This Consent Decree represents the full and final resolution of EEOC charge on  
5 which this action was based.

6 14. This Consent Decree will be in effect for one (1) year, and will expire at midnight  
7 of the date one (1) year after its entry by the Court, provided that Bally has substantially complied  
8 with the terms of this Consent Decree. Bally will be deemed to have substantially complied if the  
9 Court has not made any findings or orders that Bally has failed to comply with any of the terms of  
10 this Decree.

11 15. Upon expiration of this Decree, the Court's jurisdiction over the matter shall  
12 conclude, unless the Court has, in the interest of justice, extended the Decree.

13 **E-filing concurrence:** I, Cindy O'Hara, attorney for Plaintiff Commission, attest that I  
14 have obtained the concurrence of Rod Fliegel, attorney for Defendant Bally Total Fitness  
15 Corporation for the lodging of this Consent Decree.

16 On Behalf of Plaintiff Commission:  
17 Dated: April 13, 2007  
18 EQUAL EMPLOYMENT OPPORTUNITY  
19 COMMISSION

On Behalf of Defendant:  
Dated: April 13, 2007  
LITTLER MENDELSON  
  
\_\_\_\_\_  
/S/  
ROD FLIEGEL  
Attorneys for Defendant Bally Total Fitness  
Corporation

\_\_\_\_\_  
/S/  
WILLIAM R. TAMAYO  
Regional Attorney  
  
\_\_\_\_\_  
/S/  
JONATHAN PECK  
Supervisory Trial Attorney  
  
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/S/  
CINDY O'HARA  
Senior Trial Attorney

26 **ORDER**

27 It is so ordered.

28 Dated: \_\_\_\_\_

\_\_\_\_\_  
U.S. District Court Judge