

FILED



APR 19 2002

LARRY W. PROPPES, CLERK
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
NUTRICIA MANUFACTURING U.S.A., INC.,)
DOING BUSINESS AS)
GENERAL NUTRITION PRODUCTS)
)
Defendant.)
_____)

CIVIL ACTION NO.
8-01-3872-24BG

CONSENT DECREE

The Equal Employment Opportunity Commission ("EEOC") instituted this action pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The EEOC and Defendant agree that the subject matter of this action is proper and hereby stipulate to jurisdiction of the Court over the parties.

The parties have advised this Court that they desire to resolve the allegations in the Complaint without the burden, expense, and delay of further litigation.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the parties and the subject matter of this action; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent Decree; and (3) this Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 13 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against employees on the basis of race by denying equal

employment opportunities to persons because of their race.

2. Defendant shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII, or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under Title VII.

3. Defendant shall fully comply with the records keeping requirements of Title VII.

4. Defendant shall pay Ella Regina Davis the sum of Twenty-Two Thousand and Five Hundred Dollars (\$22,500) in settlement of the claims raised in this action. Defendant shall make payment by issuing a check payable to Ella Regina Davis. Payment shall be made within ten days after the Court approves this Consent Decree and Defendant shall mail the check to Ms. Davis care of Stephen H. Brown, Esq.; Brown & Mooneyham, LLP; P.O. Box 8359; Greenville, SC 29604. Defendant shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202, a copy of the check and proof of its delivery to Ms. Davis. Payment of these funds to Ms. Davis, who is represented by private counsel, is conditioned on Ms. Davis executing a general release of all claims. The parties agree and understand that the EEOC will not be a party to the general release between Ms. Davis and GNP.

5. Defendant shall provide a training program to its human resources employees and department head level employees at its facilities in Anderson and Greenville, South Carolina. At least fifteen (15) days prior to the program, Defendant shall provide the EEOC with an agenda for the training program. The training program shall include an explanation of the requirements of the federal equal employment opportunity laws, including Title VII of the Civil Rights Act of 1964, and its prohibition against race discrimination and retaliation in the workplace.

Furthermore, the training shall also include an explanation of the record keeping requirements of Title VII as set forth in 42 U.S.C. § 2000e-8(c) and 29 C.F.R. § 1602.14. This training shall be completed within one hundred and twenty (120) days after entry of the decree by the Court.

Within ten (10) days after completion of the training, Defendant shall certify to the EEOC the specific training which was undertaken and shall provide the EEOC with a roster of all employees in attendance.

6. During the term of this Decree, Defendant shall conspicuously post the attached Employee Notice, marked Appendix A, hereby made a part of this Decree, in a place where it is visible to employees at its Anderson and Greenville, South Carolina, facilities.

7. Defendant agrees to provide the EEOC with two reports during the term of this Decree. The reports shall include the following information: the identities of all employees at its Anderson and Greenville, South Carolina, facilities who, during the reporting period, complained of race discrimination or retaliation, including by way of identification each person's name, race, address, telephone number, social security number, the date and nature of the complaint, and what action was taken on the complaint. During the term of this Decree, as set forth in paragraph 9, Defendant shall submit the reports to the EEOC by no later than November 1, 2002, and June 1, 2003.

8. Defendant agrees that the EEOC may review compliance with this Decree. As part of such review, the EEOC may inspect the premises, interview employees and examine and copy documents. Any inspection for the purpose of satisfying the review component of this provision shall occur after providing Defendant with at least three (3) days of advance notice. The Notice contemplates that the EEOC speak to the named representative of Defendant.

9. If anytime during the term of this Decree the EEOC believes Defendant is in violation of

this Decree, the EEOC shall give written notice of the alleged violation to Gary R. Kelly, Esq., 300 6th Ave., Pittsburgh, PA 15222. Defendant shall have twenty (20) days in which to investigate and respond to the allegations. Thereafter, the parties shall have a period of thirty (30) days, or such additional period as may be agreed upon by them, in which to engage in negotiation and conciliation regarding such allegations, before the EEOC pursues any remedy provided by law.

10. The term of this Decree shall be for 18 months from its entry by the Court.
11. Defendant shall bear its own attorneys' fees and costs.
12. The EEOC shall bear its own attorneys' fees and costs.
13. This Court shall retain jurisdiction of this cause for the duration of the Decree.

April 16, 2002
Date

Terry L. Wooten
Terry L. Wooten
U.S. District Judge

[Signature pages follow]

NOTICE TO EMPLOYEES

1. This Notice is posted pursuant to an agreement between Nutricia Manufacturing U.S.A., Inc., Doing Business as General Nutrition Products (“GNP”) and the United States Equal Employment Opportunity Commission (EEOC) arising from a case alleging retaliation.
2. Federal law requires that there be no discrimination against or harassment of any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (40 or older) or disability, or retaliate against any person because of opposition to any practice made unlawful under Title VII, or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under Title VII.
3. Title VII is a federal law which prohibits race discrimination or retaliation against any employee in all aspects of employment including, but not limited to, hiring, promotion, discharge, pay, job training and fringe benefits.
4. GNP hereby reaffirms its commitment to compliance with such federal law in all respects. GNP will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or have given testimony, assistance or participation in any investigation, proceeding or hearing conducted by the U.S. Equal Employment Opportunity Commission.
5. It is GNP’s policy to maintain a working environment free from race discrimination and race harassment. GNP has adopted a policy regarding race discrimination and race harassment, and the policy sets forth a complaint procedure for individuals who believe they have been a victim of or witnessed race discrimination or race harassment.

An employee has the right to report allegations of employment discrimination or harassment in the workplace. An employee may contact the U. S. Equal Employment Opportunity Commission at the following address and telephone number for the purpose of filing a charge of employment discrimination or harassment.

Equal Employment Opportunity Commission
Greenville Local Office
301 N. Main Street, Landmark Building, Suite 1402
Greenville, SC 29601
Tel: (864) 241-4400

Attachment A