MAY 2 DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

FILED

JUN - 2 2005

ÉQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

::ff

Civil Action No. SA-04-CA-0573-WWJ

Plaintiff,

v.

PASS & SEYMOUR, INC. and KENNMARK GROUP, LTD.,

Defendant.

CONSENT DECREE AS TO DEFENDANT PASS & SEYMOUR

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), and Defendant, Pass & Seymour, Inc. ("Pass & Seymour"). The EEOC initiated this action under Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, and Title I of the Civil Rights Act of 1991, to correct alleged unlawful employment practices on the basis of sex, male, and to provide appropriate relief to a class of males ("class members") who allegedly were adversely affected by these practices. Pass & Seymour denies the allegations set forth in the action, and further denies that it has acted in violation of law. The EEOC and Pass & Seymour desire to settle this action, without the risks, uncertainties and expenses of continued litigation, pursuant to the terms set forth in this Consent Decree. By entering into this Consent Decree, Pass & Seymour makes no admission of liability. The EEOC and Pass & Seymour stipulate and agree to the terms of this Consent Decree as final and binding to resolve and settle in full all issues raised in the action and Commissioner's Charge No. 360A11724 ("Charge"), including any and all claims brought pursuant to the Charge or based on the allegations set forth in the action with respect to hiring for Assembler positions at Pass &



Seymour's San Antonio, Texas, facility prior to the entry of this Consent Decree. Unless specifically stated otherwise, this Consent Decree only applies to hiring for Assembler positions at Pass & Seymour's San Antonio, Texas, facility prior to the entry of this Consent Decree.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

- 1. This Court has jurisdiction of the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the EEOC's filing of this action have been met.
- 2. The EEOC agrees to discontinue and dismiss the action against Pass & Seymour. By entering into this Consent Decree, the EEOC hereby releases and forever discharges Pass & Seymour, its corporate parents and affiliates, predecessors, successors and assigns, and any and all of its past and present employees, officers, directors, shareholders and agents, from any and all claims, causes of action, suits, proceedings, damages, liabilities, and demands raised in the action or Charge regarding Pass & Seymour's action or inaction in the recruiting, screening, interviewing, rejecting, selecting and/or hiring of individuals for Assembler positions at the San Antonio, Texas, facility between January 1, 1997, and the date this Consent Decree is entered by the Court. Exhibit "1" is a list of male class members who applied for Assembler positions.
- 3. Neither this Consent Decree nor its terms shall constitute an admission to or evidence of liability or any violation of the law by Pass & Seymour, and may not be used as evidence of liability or violation of the law in any proceeding involving Pass & Seymour. The parties have entered into this Consent Decree to avoid the delay, expense and uncertainty of further litigation.
- 4. Nothing contained in this Consent Decree will prohibit the EEOC from accepting and/or processing charges of discrimination filed by or on behalf of any individuals against Pass

- & Seymour. The EEOC agrees that it will not issue any right-to-sue notices based on discriminatory practices regarding hiring for Assembler positions at Pass & Seymour's San Antonio, Texas facility prior to the entry of this Consent Decree as alleged in the action or Charge.
- 5. This Decree shall remain in effect for three (3) years from the date of entry by the Court, and shall expire at the end of the 3-year term without further action by the Court or the parties to effect the Consent Decree's termination. This Court shall retain jurisdiction of the action only for the purposes of enforcing this Consent Decree. At the expiration of the Consent Decree the parties will submit to the Court a Joint Stipulation dismissing the action against Pass & Seymour with prejudice, each party to bear its own costs and fees.
- 6. During the term of this Consent Decree, Pass & Seymour shall be enjoined from engaging in gender discrimination with regard to recruiting, interviewing, selecting, rejecting, and/or hiring individuals to fill Assembler positions at any of its facilities.
- 7. Pass & Seymour shall post the notice set forth in Exhibit "2" ("Notice") to this Consent Decree regarding its policies, practices, and intent to comply with Title VII, where Pass & Seymour customarily posts employee notices at any facility which employs Assemblers. The Notice shall be posted within ten (10) business days of the entry of this Consent Decree, and shall remain posted for the duration of this Consent Decree.
- 8. During the term of this Consent Decree, Pass & Seymour shall adopt a statement reflecting its commitment to maintaining a hiring program that does not discriminate on the basis of gender.
- 9. Within ninety (90) days of the entry of this Consent Decree, labor and employment attorney(s) of BOND, SCHOENECK & KING, PLCC ("Pass & Seymour's legal

counsel"), shall provide six (6) hours of Equal Employment Opportunity training to Pass & Seymour Human Resources and other management employees (hereinafter, collectively, the "Management Employees") who are involved in the recruiting, screening, interviewing, selecting, rejecting and/or hiring of individuals for Assembler positions at any Pass & Seymour facility that employs Assemblers. The training will include information regarding Title VII's prohibitions against discrimination on the basis of gender, including performance based on stereotypical notions of gender-related job performance, and will reaffirm Pass & Seymour's commitment to non-discriminatory hiring for Assembler positions. Pass & Seymour's legal counsel will conduct similar training during each year of this Consent Decree for those Management Employees (i) hired, transferred or promoted during the preceding twelve (12) months into positions responsible for the screening, interviewing, selecting, rejecting and/or hiring of individuals for Assembler positions, and (ii) who have not received the training during the term of this Consent Decree. Within ten (10) days after the initial and each annual training program, Pass & Seymour shall provide the EEOC with written confirmation that the training has been completed and a copy of the training syllabus and materials. No less than ten (10) days before each training program, Pass & Seymour may request pre-approval from the EEOC of the syllabus and materials to be used. Pass & Seymour shall provide a list of individuals, identified by name and title/position, who attended each training program and the date of their attendance.

10. Within ten (10) days after entry of this Consent Decree by the Court, Pass & Seymour shall mail an Acknowledgment of Interest and Release (the "Acknowledgment") and cover letter, copies of which are attached as Exhibit "3," to each individual at every address identified in Exhibit "1," who shall have sixty (60) days from the date of the Acknowledgment mailing to execute the Acknowledgment and deliver the executed form to Pass & Seymour, c/o

BOND, SCHOENECK & KING, PLLC, One Lincoln Center, Syracuse, New York 13202-1355. Pass & Seymour shall re-mail any notices that are returned with a forwarding address. Any individual who does not timely execute and return the Acknowledgment shall be excluded from the class. Pass & Seymour shall provide the EEOC with copies of the signed Acknowledgments. Pass & Seymour shall pay a pro rata share to each individual identified on Exhibit "1" who executes the Acknowledgment and returns it to Pass & Seymour within sixty (60) days of the Acknowledgment mailing, for a total amount of \$475,000.00 (the "Funds"). Pass & Seymour shall, within ninety (90) days from the date of the Acknowledgment mailing, mail payment to all individuals who timely executed and delivered the Acknowledgment to Pass & Seymour. Pass & Seymour shall make tax withholdings from the pro rata share determined to be payable to each class member, and will issue a Form 1099 to each class member receiving payment. A copy of each payment check shall be provided to the EEOC. Any returned checks shall be re-mailed by Pass & Seymour within one-hundred fifty (150) days after the date of the Acknowledgment mailing to the forwarding address provided to Pass & Seymour by the U.S. Postal Service.

If any amount of the Funds is not successfully delivered to class members, whether through failure of check delivery or the check not being cashed within two-hundred (200) days after the date of Acknowledgment mailing (hereinafter the "Residual Amount"), the class member shall forever forfeit any and all right to his share of the settlement payment, and Pass & Seymour will immediately stop payment and void undeliverable/uncashed checks. By or before two-hundred thirty (230) days after the date of the Acknowledgment mailing, Pass & Seymour will donate the Residual Amount to the Equal Rights Advocates, 1663 Mission Street, Suite 250, San Francisco, CA 94103.

- 11. Nothing in this Consent Decree is intended to confer upon any person or entity other than the EEOC or Pass & Seymour the right to seek enforcement of this Consent Decree and/or of any of the terms contained herein, and no class member or any individual excluded from the class (including but not limited to individuals not listed in Exhibit 1, and individuals excluded for having failed to timely sign and deliver an executed Acknowledgement to Pass & Seymour) is authorized to bring any proceeding to enforce this Consent Decree and/or any of the
- 12. All documents required to be forwarded to the parties or their counsel shall be mailed, delivered or faxed to counsel at the following addresses:

TO THE EEOC:

terms contained herein.

Robert B. Harwin, Regional Attorney Equal Employment Opportunity Commission San Antonio District Office 5410 Fredericksburg Road, Suite 200 San Antonio, Texas 78229-3555 Telephone: (210) 281-7643

Facsimile: (210) 281-7643

TO PASS & SEYMOUR'S LEGAL COUNSEL

David M. Ferrara BOND, SCHOENECK & KING, PLLC One Lincoln Center Syracuse, New York 13202-1355 Telephone: (315) 218-8000

Facsimile: (315) 218-8100

13. The parties to this Consent Decree shall bear their own costs and attorney's fees incurred in this action as of the date of entry of this Consent Decree by the Court. The parties agree that, pursuant to Section 706(k) of Title VII, 42 U.S.C. Section 2000e-5(k), there is no "prevailing party" in this action or proceeding.

The Clerk shall furnish a copy hereof to each attorney of record.

SO ORDERED.

Signed this <u>f</u> day of <u>June</u>, 2005.

WILLIAM WAYNE JUSTICE

SENIOLUNITED STATES DISTRICT JUDGE

Respectfully submitted,

ERIC S. DREIBAND General Counsel

JAMES L. LEE Deputy General Counsel

GWENDOLYN YOUNG REAMS Associate General Counsel

N.D.N.Y. Bar Roll No. 101637

PAUL LIMMIATIS

N.D.N.Y. Bar Roll No. 510483

BOND, SCHOENECK & KING, PLLC

One Lincoln Center

Syracuse, New York 13202-1355

Telephone: (315) 218-8000 Facsimile: (315) 218-8100

TIMOTHY H. BANNWOLF

Texas State Bar No. 01697105

NATALIE C. ROUGEUX

Texas State Bar No. 24041828

BRACEWELL & GIULIANI LLP

106 South St. Mary's Street, Suite 800

San Antonio, Texas 78205-3603

Telephone: (210) 226-1166 Facsimile: (210) 226-1133

ATTORNEYS FOR DEFENDANT

PASS & SEYMOUR, INC.

Regional Attorney

District of Columbia Bar No. 076083

JUDITH G. TAYLOR

Supervisory Trial Attorney

Texas State Bar No. 19708300

EDWARD JUAREZ

Trial Attorney

Texas State Bar No. 24014498

EQUAL EMPLOYMENT OPPORTUNITY

COMMISSION

5410 Fredericksburg Road, Suite 200

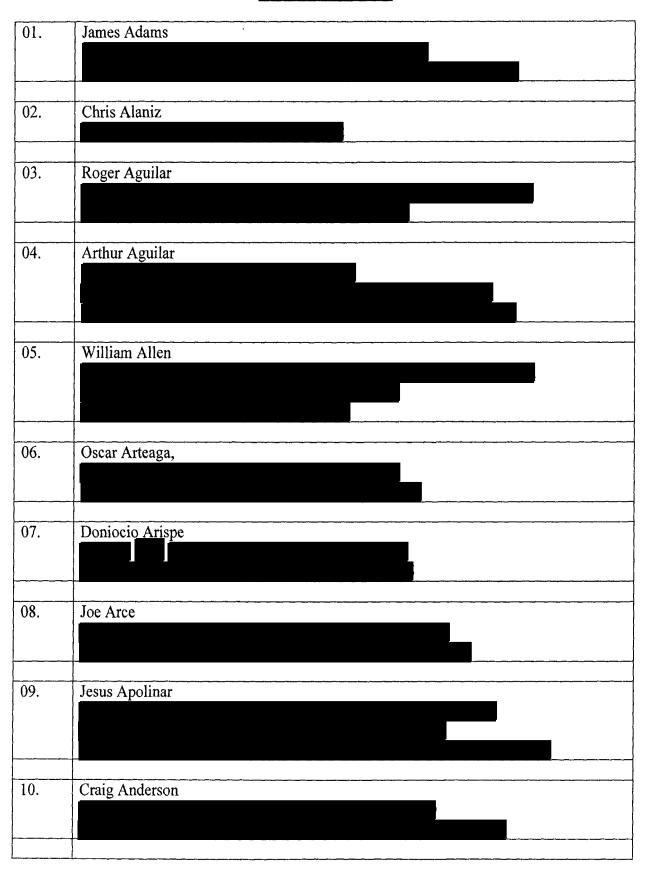
San Antonio, Texas 78229 Telephone: (210) 281-7613

Facsimile: (210) 281-7669

ATTORNEYS FOR PLAINTIFF

Exhibit 1

CLASS MEMBERS

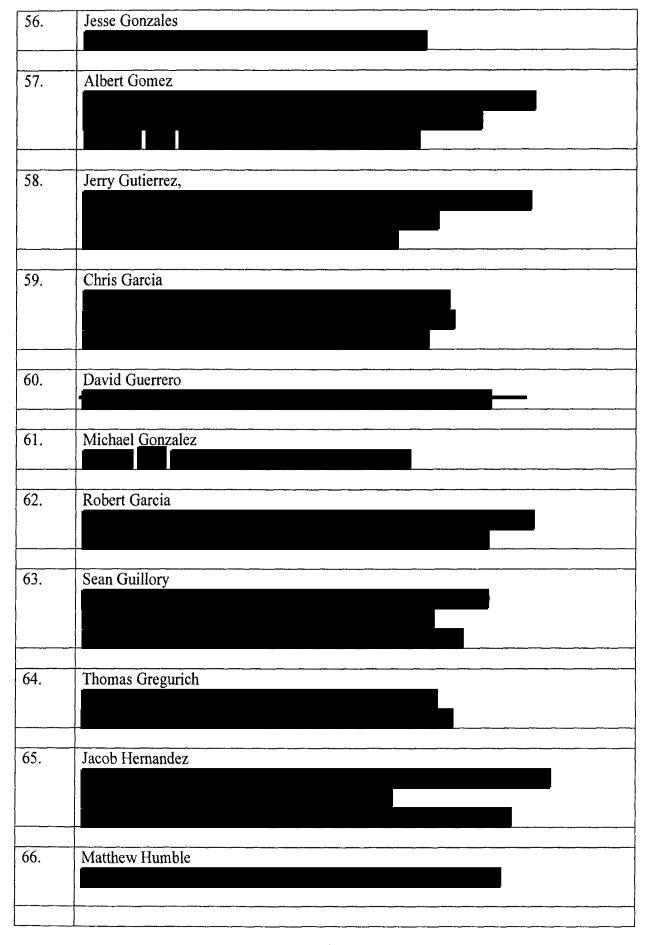


11.	Jose Alvarez
12.	Emilio Alvarez
	39
ļ	
13.	Paul Aguilar
1.1	
14.	Javier Ambrose
15.	Antonio Acosta
ļ	
16.	Guadalupe Alvarado,
17.	Thomas Anthony
17.	Thomas Anthony
4.0	
18.	Ralph Almendarez
19.	Ralph Alcoser,
20.	Chauncey L. Bush
21.	James Briones
22	W. Di
22.	Ken Blair

······································	
22	Occur Damora
23.	Oscar Barrera
24.	Delbert Bray Jr.
25.	Jesse Botello
26.	Adrian Barrientos
27.	Jonathan Barrier
28.	Gualberto Barron
29.	Hervey Beal
30.	Oscar Benavides
31.	Eric Bermudez
U	
32.	John Bocanegra
33.	Kirby Bordelon,

34.	Henry Bosquez
35.	Robert Briseno
36.	LD Byrd Jr.
27	Famoudo Consino
37.	Fernando Cansino
38.	Victor Cedeno
30.	Victor Cedeno
39.	Mario Cervantes
40.	Orlando Chapa
41.	Melvin Clavin
42.	Rick Casares
40	
43.	Abelardo Castaneda
······································	
44.	Joe Luis Casias Jr.

45.	Steve Chavez
46.	David Cavazos
47.	Jose Casteneda
48.	Gilbert Davila
49.	Harmon Spelle Dowell Jr.
50.	Jesus Diaz
51.	Raymond Espino
52.	Louis Figueroa
53.	Jose Luis Garcia
54.	Alejandro Gutierrez
55.	Robert Garcia Sr.



67.	Andy Haselfoff
60	
68.	Frank Hernandez
69.	Gerardo Hernandez
70.	Frank Lujano Jr.
71.	"Trey" Robert Lockwood
'	
72.	Henry Lopez
<u> </u>	
73.	Juan Lopez
74	W/:II:- 1
74.	Willie Lozano
75/	James Hemby
Ì	
76.	Robert Allen Johnson
77.	Kenneth Johnson Jr.

79. Moses Maldanado 80. James Moran 81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales 87. Hector Neira	
79. Moses Maldanado 80. James Moran 81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
80. James Moran 81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
80. James Moran 81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
80. James Moran 81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
80. James Moran 81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	***************************************
81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
81. Edward Lopez Jr. 82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
82. David Long 83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	
83. Samuel Mancillas 84. John Mello 85. Manuel Mendiola 86. Charles Morales	***************************************
84. John Mello 85. Manuel Mendiola 86. Charles Morales	
84. John Mello 85. Manuel Mendiola 86. Charles Morales	
84. John Mello 85. Manuel Mendiola 86. Charles Morales	
85. Manuel Mendiola 86. Charles Morales	
85. Manuel Mendiola 86. Charles Morales	
85. Manuel Mendiola 86. Charles Morales	
86. Charles Morales	
86. Charles Morales	
86. Charles Morales	
87. Hector Neira	
87. Hector Neira	
87. Hector Neira	
88. McKenzie M. Price	

89.	Johnny Reyes
90.	Alfonso Ramos
91.	Arthuro Miranda Ramirez
92.	Steven Smith
02	Moul. Commission
93.	Mark Snow
94.	Armando Torres
95.	Mark Anthony Quintero
96.	Ivey Michael Bryant
<i>5</i> 0.	- Trop Wiender Bryant
97.	Andrew Johnson, Jr.
98.	Bobby Aguilar
99.	Mario Arida
<i>))</i> ,	IVIGITO ATIGA

100.	Michael Arevalo
101.	David Ayala,
102.	Jesus Arriaga
103.	Gerardo Alvarez
103.	Gerardo Arvarez
	44
104.	Rogelio Arizmendi
105	D Al
105.	Ray Alvarado
·	
106.	Gerald Adkisson
107.	Roman Banda
107.	Roman Banda
108.	Lonnie Brogan
······································	
109.	Raymond Broadnax
10).	Raymond Droudnax
A	
110.	Johnas Brewster

111.	Robert Baxter
112.	Epifanio Barrera,
112.	Epitanio Battera,
112	D 1-40 1
113.	Robert Cardenas
114.	Carlos Cardenas
115.	James Castro
116.	Pedro Chavez
Ì	
}	
117.	Robert Carreno
118.	Casareo Cantu,
110.	Cusureo Cuntu,
}	
119.	Hunter DeLeon
119.	Hunter Deleon
120	0.1. D
120.	Carlos Diaz
101	
121.	Christopher Davis
122.	Ivan Crawford

123.	Robert Cruz
124.	Steven Enriquez
-	
125.	Joe Errisuriz
126.	Alejandro Fabela
	,
127.	Christopher Fuentes,
128.	Daniel Guzman
129.	Eliseo Guzman
127.	Elisco Guzinan
130.	Juan Guerra
············	
131.	Rodrigo Garcia

132.	Carlos Gonzales
133.	Robert Gonzales
	Robert Gonzales

134.	Gary Hernandez
135.	Quiton Holland
133.	Quiton Honand
-	
136.	David Hernandez
137.	Daniel Herrera
120	T II
138.	Juan Hernandez
139.	Richard Hernandez
140	
140.	Robert Johnson
141.	Christopher Juarez
142	
142.	Eddie Jefferson
143.	Brian Johnson
144.	Anthony Lopez
1 TT,	7 indiony Lopez
145.	Robert Leal

146.	Benito Lucio
147.	Rick Levine
147.	RICK ECVIRC
148.	Travis Lamb
140	D 11
149.	Paul Lozano
150.	Larry Lubbering
151.	Ricardo Lopez,
131.	Ricardo Lopez,
152.	Julian Lopez
153.	Andrew Lopez
133.	Indiew Bopez
154.	Mark Lopez
155	
155.	Daniel Martinez
156.	David Martinez

157.	Eloy Martinez
150	
158.	Fernando Martinez
159.	Moses Martinez
160.	Robert Martinez
161.	Roger Martinez
162.	Eraclio Machado
163.	Steve Martinez
164.	Michael Moreno
165.	Louis Medina
166.	Clifford McLendon
167.	Freddy Martinez

168.	Antonio Mandujano
169.	Daniel Maldonado
105.	Damer Wardonado
170.	Antonio Olivares
171.	Jorge Ortiz
172.	Ismael Olivo
1772	
173.	Edward Ortiz
174	Carrie Douge
174.	Sergio Perez
175.	Hector Javier Parra
<u>,, </u>	
176.	Marcos Quinones

177.	Jose Romero
	
178.	Thomas Russo

179.	Pedro Ramirez
180.	Jesse Rodriguez
181.	Billy Rendon
182.	Alfredo Reyes
183.	Jose Rico

184.	Victor Rico
185.	Gino Rios
186.	Omar Salinas
187.	Paul Sanchez
188.	Daniel Spruell
189.	Valentin <u>Suttles</u>
190.	William Steen

191.	Derrick Soto
100	III G.1'.
192.	Ulysses Solis
193.	Jeff Solis
194.	Jimmy Smith
195.	Christopher Torres

196.	Tirwan Trammel
197.	Mario Vela
	
198.	Raymond Vina
199.	Alvino Sarabia
177.	Alvino Sarabia
-	
200.	Sing Thephavong
201.	Jesus Arraiga

202.	James Saucedo
203.	Alejandro Valle
204.	Paul Santana
205.	Joel Ortegon
206.	Nick Palencia
200.	Nick Palencia
207.	Antonio Cortinas
208.	Rocio Martinez
209.	Humberto Salas
200.	Trainostto Sutus
210	
210.	Mike Reyna
211.	Mark Trevino
~·····································	
212	Comp. D. L.
212.	George Rubio
213.	Juan Viera
·	
.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	

214.	Joaquin Ramirez	
215.	Fred Noriega	
216.	John Solis	

Exhibit 2

Pass & Seymour, Inc., is committed to hiring applicants for employment without regard to their sex, race, color, religion, age, national origin, or disability. Pass & Seymour will not tolerate discrimination which violates state or federal laws or local ordinances, including failing to hire individuals on account of their sex, race, color, creed/religion, age, national origin, or disability.

Pass & Seymour in particular will not tolerate gender discrimination in hiring such as for example discriminatorily preferring women and excluding men in hiring for Assembler positions.

If any employee believes he or she has been discriminated against, the employee should immediately notify his/her supervisor or manager. If the complaint involves someone in the employee's direct line of supervision, the employee is encouraged to speak directly with the Human Resources Manager or the Vice-President/General Manager. Employees may also contact the Equal Employment Opportunity Commission at 1-800-669-4000 (TTY: 1-800-669-6820).

Pass & Seymour will take appropriate corrective action, up to and including termination, based on the circumstances involved, against any employee who violates Pass & Seymour's policies against discrimination.

Exhibit 3 Date

Name	
Address	
City, State Zip	
Dear Mr,	
("Pass & Seymour") are parties to a la Texas. The lawsuit involves a claim Assembler positions at the facility loc Seymour denies the EEOC's claim an	cunity Commission ("EEOC") and Pass & Seymour, Inc wsuit pending in the U.S. District Court in San Antonio that Pass & Seymour did not hire a class of males fo cated in San Antonio because of their gender. Pass & d the District Court has made no decision in this case ymour have entered into a settlement agreement (Consen
in San Antonio, Texas. The parties are desire to be included in the settlement damages. In order to participate, eligib the attached Acknowledgment of Inter	applied for an Assembler position with Pass & Seymour in the process of identifying potential class members who of this lawsuit and thus receive a portion of the money ole class members must complete, sign, and timely return rest and Release. The payment amount that each class number of eligible class members who timely respond to not of Interest and Release.
If you desire to participate in return it in the envelope provided, and b	this settlement, please complete the enclosed form and be certain to include your address.
office listed above not later than 5:00	settlement, the enclosed form must be received at the p.m., E.D.T., on or before, 2005. Any
form or requested information receive be accepted or included in the settlem	red after 5:00 p.m. on, 2005, will not ent.
If you have any questions abou Attorney, at (210) 281-7613.	t this letter, please contact Eduardo Juarez, EEOC Trial
	Very truly yours,
	BOND, SCHOENECK & KING, PLLC
	David M. Ferrara Paul Limmiatis

Exhibit 3

Acknowledgment of Interest and Release

		-
	ber:	
	her	
	her.	
	her·	
	her:	
	her.	
	her	
		-
		-
	The state of the s	-
(· · · · · · · · · · · · · · · · · · ·		_
(include zip code)		•
Current Address:		_
(print)		
Full Name:		_
RE: PASS & SEY	MOUR, INC.	
Paul Limm	iatis	
ATTN: David M. F		
ACCOUNT TO 113.6 TO		
Syracuse, New Tork	13202-1333	
Syracuse, New York	13202-1355	
	LK & KING, PLLC	
BOND, SCHOENEO		

Your response will not be processed unless all of the above information is completed.