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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA

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EQUAL EMPLOYMENT OPPORT	UNITY)		CLERIC
COMMISSION,)		
)		
Plaintiff,)		
)	CIN 00 4174	
)	CIV 99-4174	
)		
)		
v.)		
JOHN MORRELL & CO.,)		
·)		
Defendant.)		
**********	******	**********	*****

CONSENT DECREE

<u>RECITALS</u>

- 1. This matter was instituted by Plaintiff, the United States Equal Employment Opportunity Commission ("Commission" or "Plaintiff"), an agency of the United States Government, alleging two violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ('Title VII"). In its Complaint, the Commission specifically alleged that Defendant John Morrell & Co. ("John Morrell" or "Defendant") unlawfully subjected a former employee to a hostile and offensive work environment based on his national origin, in violation of Section 703 of Title VII, 42 U.S. C. § 2000e-2(a).
- 2. The Commission. Plaintiff-Intervener, and Defendant, being desirous of settling this action by an appropriate Consent Decree ("Decree"), agree to the jurisdiction of the Court over the parties.
- 3. The Decree shall be voluntarily entered into by the parties, and shall not constitute an adjudication or finding on the merits; nor shall it be construed as an admission by John Morrell & Co. that it violated Title VII by maintaining a work environment hostile to Hispanics or other minorities, or groups or individuals on any basis.
- 4. This Decree is final and binding upon the parties, as well as upon their successors and assigns. Furthermore, the parties agree to defend this Decree should it be challenged by a non-party.

5. Solely for the purpose of amicably resolving the claims, John Morrell & Co. joins with the Commission in requesting this Court to adjudge as follows:

IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

- 6. The parties stipulate to the jurisdiction of the Court over the respective parties and waive entry of findings of fact and conclusions of law.
- 7. The duration of this Decree shall be from the date of approval by the Court through August 12, 2002.

ISSUES RESOLVED

- 8. This Decree, resolves all claims of the Commission for backpay, compensatory, pecuniary and non-pecuniary damages, reinstatement, and punitive damages on behalf of charging party arising out of the claims and issues set forth in Civil Action 99-4174.
- 9. The Commission will attempt to resolve any dispute regarding enforcement of the Decree by informal mediation and consultation before seeking enforcement through the judicial process. If the Commission has any reason to believe that any action or omission on Defendant's part violates this Agreement, the Commission will notify Defendant in writing.
- 10. John Morrell & Co., its officers, agents, employees, successors, and all other persons in active concert or participation with any of them will not interfere with the relief herein ordered, but shall cooperate in the implementation of this Decree.

COMPLIANCE

11. Harassment Policy.

a. Defendant John Morrell & Co. shall adopt and maintain a policy proscribing workplace harassment or discrimination on the basis of national origin, race, color, ethnicity, religion, disability, or age, by all employees and proscribing retaliation against any employee who complains about harassment or who files a charge of discrimination regarding harassment. This policy shall contain all the elements shown in the sample harassment and retaliation policy attached hereto as Exhibit A. Within thirty days of the execution of this Agreement, Defendant shall forward a copy of said harassment and retaliation policy to the Commission's Attorney of Record in this matter for review. Throughout the duration of this agreement, the Commission shall retain the authority to recommend necessary modifications to the policy to ensure that it conforms fully to federal law. Defendant agrees to implement such modifications, after consultation with the Commission's Attorney of

Record.

- b. John Morrell & Co. shall post and cause to remain posted during the term of this Decree a copy of its harassment and retaliation policy in a place clearly visible to all employees, including but not limited to: 1) every cafeteria; 2) every break room; and 3) every locker room. Said policy shall be written and posted in both the English and Spanish languages.
- c. A copy of said policy, in English or Spanish as appropriate, shall be individually distributed to each and every employee who supervises one or more employees (either directly or through the supervision of others).
- d. Within forty-five days (45) of the approval of this Agreement, John Morrell & Co. shall prepare and submit to the Commission's Regional Attorney in the Denver District Office a letter indicating that the foregoing harassment policy above has been posted and distributed.

12. Harassment/Discrimination Internal Complaint Procedures.

- a. Authority to investigate and make decisions with respect to any complaint or report of harassment shall be vested in John Morrell & Co.'s Affirmative Action Officer or the director of Human Resources, or any other Human Resources employee the Company designates.
- b. Other managerial or supervisory employees may receive complaints of harassment. Upon receipt of said complaints, the managerial employee shall forward the matter to the Affirmative Action Officer, the Director of Human Resources, or the Human Resources employee designated pursuant Paragraph 12.a. for appropriate investigation and action.
- 13. <u>Training.</u> The training requirements provided for in the Consent Decree entered into by and between the parties to this action in Civil Action Number 98-4131 (40 hours per year for the affirmative action officer and 10 hours per year for the Director of Human Resources) shall suffice to meet the training needs to comply with this consent decree. The inclusion of the reference to the training requirements of the above referenced Consent Decree does not require duplication of the training hours provided for therein.
- 14. <u>Posting.</u> Defendant shall post a Notice of this Decree in a place visible to all employees for sixty (60) days after the date of signing of the Decree by the Court. The Notice agreed upon by the parties is attached hereto as Exhibit B.
- 15. Record Keeping. With respect to each internal complaint of harassment made to the appropriate managerial employee, as provided for in Defendant's harassment and retaliation policy, or with respect to each charge of harassment filed by an employee with any local, state, or federal agency against Defendant, Defendant

shall keep and maintain separately the following records:

- a. The name, address, and telephone number of complaining employee;
- b. The substance of the complaint;
- c. The name of the company official investigating the complaint;
- d. any investigative steps taken in response to said complaint;
- e. Defendant's determination as a result of the investigation,
- f. Any action taken against the alleged harasser and/or any action taken to resolve the complaint.
- 16. Reporting. The reporting provisions contained in the Consent Decree entered into in Civil Action Number 98-4131 are incorporated herein by this reference. Such incorporation shall not in any way act to duplicate the burden upon Defendant and simply requires the reports to include the categories of discrimination and harassment identified herein.
- 17. <u>Anti-retaliation.</u> Defendant agrees not to retaliate against the former employee or any other individual who participated in the investigation of the charges of Discrimination or who participates in any investigation conducted by the EEOC or any local or state agency that investigates charges of discrimination or harassment.
- 18. <u>Press Release/Coverage</u>. The Commission and Defendant shall issue a joint press release attached hereto as Exhibit C as the exclusive press release related to the resolution of this litigation.
- 19. <u>Monetary Compensation</u>. Defendant agrees to compensate the former employee, pursuant to the terms contained in a separate agreement, for injuries arising out the claims asserted in this action.

RETENTION OF JURISDICTION AND FILING OF DECREE

- 20. This court shall retain jurisdiction of this cause for purposes of compliance with this Decree and entry of such further orders or modification as may be necessary or appropriate to effectuate the purposes of Title VII.
- 21. Upon submission of the final report referenced in Paragraph 16, and the expiration of a period of fifteen days after submission of final report, the parties shall promptly file a Joint Stipulation for Dismissal with Prejudice ("Joint Stipulation") of this civil action, upon which the filing of this Decree shall dissolve, and this Civil Action 99-4174 shall be dismissed with prejudice.

ENFORCEMENT

22. There is no right of private non-parties to enforce John Morrell & Co.'s obligations under the Consent Decree, and only the Commission, and John

- Morrell & Co. or their successors may enforce compliance herewith.
- 23. This Consent Decree shall in no way limit the Commission's power and authority to investigate or litigate charges of discrimination against John Morrell & Co. that do not relate to this case.

COSTS AND ATTORNEY FEES

24. Each party shall bear and pay its own costs and attorneys fees, unless otherwise ordered by the Court.

NOTICE AND MAILING

25. Any notice, report or communication required under the provisions of this Decree shall be sent by certified mail, postage prepaid, to the appropriate parties as follows:

Joseph Mitchell
Regional Attorney
Equal Employment Opportunity Commission Denver District Office
303 E. 17th Ave., Suite 510
Denver, CO 80203

Leslie Robert Stellman, Esq.
Blum, Yumkas, Mailman, Gutman & Denick, P.A.
1200 Mercantile Bank and Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201-2914

APPROVED AS TO FORM:

EVANGELINA HE Trail Attorney

EQUAL EMPLOYMENT OPPORTUNI)

COMMISSION

Denver District Office

303 E. 17th Ave., Suite 510

Denver, CO 80203

Phone - 303-866-1376

Attorney for Plaintiff

Løslie Robert Stellman, Esq.

plum, Yumkas, Mailman, Gutman & Denick, P.A.

1200 Mercantile Bank and Trust Building

2 Hopkins Plaza

Baltimore, Maryland 21201-2914

Phone - 410-385-4035

Attorney for Defendant

BY CONSENT:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION BY: Joseph H. MITCHELL Regional Attorney	DATE: 11/30/00
JOHN MORRELL & CO. BY: Alf Consul	DATE: 12/21/00
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BY THE COURT

Lawrence L. Piersol United States District Court Judge

Exhibit A

HARASSMENT and ANTI-RETALIATION POLICY

Pursuant to Title VII of the Civil Rights Act of 1964, as amended, it is unlawful for an employer to subject an employee to acts of harassment based upon the employee's sex, race, color, religion, or national origin, or to permit or encourage a work environment in which such conduct occurs. Further, it is unlawful for any employer to retaliate against an employee because he or she has opposed discriminatory employment practices because he or she has filed a charge of discrimination with any municipal, state or federal equal employment opportunity agency, or because he or she has participated in an investigation of a charge of discrimination.

It is the policy of John Morrell & Co. to prohibit the types of harassment described above. All persons, including supervisors and managers, who are responsible for such conduct shall be disciplined.

Employees who believe that they have been subjected to harassing conduct may complain to anyone in management and/or to Candace Lottman, the Affirmative Action Officer located in Human Resources. Within ten calendar days of the complaint, management officials will conduct a full investigation, which will include a thorough interview with the complaining employee, the alleged harasser, and any witnesses, as appropriate. Upon conclusion of the investigation, the investigating managerial official will report back to the complaining employee, and take my appropriate action against the offending party.

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John Monell & Co. respects the right of its employees to work in an environment that is free from harassment. In compliance with federal law, no official at John Morrell & Co. will retaliate against an employee who complains about harassing conduct or who participates in a harassment investigation either: 1) through the internal complaint procedure described above; or 2) through any municipal, state, or federal equal employment opportunity agency investigation.

NOTICE

The following notice is posted pursuant to the terms of a Consent Decree Reached between the parties in <u>EEOC v. John Morrell & Co.</u>, filed in the United States District Court for the District of South Dakota, Civil Action No. 99-4174.

Pursuant to Title VII of the Civil Rights Act of 1964, as amended, it is unlawful for an employer to subject an employee to acts of harassment based upon the employee's sex, race, color, religion, or national origin, or to permit or encourage a work environment in which such conduct occurs. Further, it is unlawful for any employer to retaliate against an employee because he or she has opposed discriminatory employment practices because he or she has filed a charge of discrimination with any municipal, state or federal equal employment opportunity agency, or because he or she has participated in an investigation of a charge of discrimination.

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In compliance with federal law, no official at John Morrell & Co. will retaliate against an employee who complains about harassing conduct or who participates in a harassment investigation *either*: 1) through the internal complaint procedure described above; or 2) through my municipal, state, or federal equal employment opportunity agency investigation. If you believe that John Morrell & Co. officials have retaliated against you for complaining about harassment, please contact the EEOC, Denver District Office, immediately at (303) 866-1300 or 1-800-669-4000.

This Notice shall remain posted for 60 days from the date of the Notice.

JOHN MORRELL & CO.		
Ву		
Its	Date	

EXHIBIT C

EEOC SETTLES DISCRIMINATION CASE AGAINST MEAT PACKING COMPANY

The United States Equal Employment Opportunity Commission (EEOC) and John Morrell & Co. (Morrell) announced that a settlement was reached in an action filed by the EEOC alleging that a former Hispanic employee had been exposed to harassment in 1995 based upon his national origin - conduct which John Morrell & Co. has denied. The Company has agreed to continue its ongoing efforts to maintain a work environment that is free from harassment and discrimination and has offered an economic settlement to the former employee. The settlement was approved by a federal district court judge.

"We were happy that John Morrell agreed to work with the Commission in resolving this case and in seeking to ensure good equal employment opportunity practices," states Joseph H. Mitchell, Regional Attorney of the Denver District Office of the EEOC.

In addition to enforcing Title VII, which prohibits discrimination based on race, color, religion, sex or national origin, the EEOC also enforces the Age Discrimination in Employment Act, the Equal Pay Act, prohibitions against discrimination affecting individuals with disabilities in the federal sector, sections of the Civil Rights Act of 1991, and Title I of the Americans with Disabilities Act, which prohibits discrimination against people with disabilities in the private sector and state and local governments. Further information about the EEOC is available at the agency's website at www.eeoc.gov.