

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 2964	DATE	4/17/2003
CASE TITLE	USA EEOC vs. Dutch Farms, Inc.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____. Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) Local Rule 41.1 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] Enter Consent Decree. This Court will retain jurisdiction of this matter to enforce the Consent Decree. Each party shall bear its own expenses, costs and attorneys' fees.
- (11) [For further detail see order attached to the original minute order.]

	No notices required, advised in open court.	<div style="border: 1px solid black; padding: 5px;"> <p style="font-size: 1.2em; margin: 0;">APR 18 2003</p> <p style="font-size: 0.8em; margin: 0;">date docketed</p> <p style="font-size: 0.8em; margin: 0;">docketing deputy initials</p> <p style="font-size: 0.8em; margin: 0;">4/17/2003</p> <p style="font-size: 0.8em; margin: 0;">date mailed notice</p> <p style="font-size: 0.8em; margin: 0;">SN</p> <p style="font-size: 0.8em; margin: 0;">mailing deputy initials</p> </div>	Document Number
	No notices required.		
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		
	Notified counsel by telephone.		
	Docketing to mail notices.		
	Mail AO 450 form.		
	Copy to judge/magistrate judge.		
SN	courtroom deputy's initials	Date/time received in central Clerk's Office	5

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RECEIVED
EEOC

APR 15 2003

**UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION)**

Plaintiffs,)

v.)

DUTCH FARMS, INC.,)

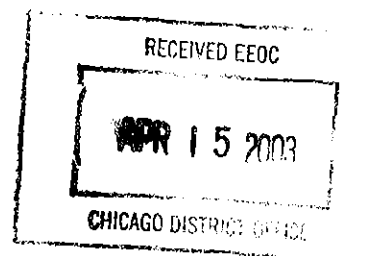
Defendant.)

No. 02 C 2964

**Judge Shadur
Magistrate Judge Scheinker**

CONSENT DECREE

THE LITIGATION



1. Plaintiff Equal Employment Opportunity Commission (the "EEOC") filed this action alleging that beginning in or around August 2000, Defendant Dutch Farms, Inc. ("Dutch Farms" or "Defendant"), violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et. seq.*, ("Title VII") by subjecting Charging Party Bernard Harper and a class of African-American employees to a pattern or practice of racial harassment in the form of racist remarks, jokes, and graffiti.

2. Dutch Farms had denied and continues to deny the EEOC and Bernard Harper's allegations and nothing contained in this Consent Decree shall be construed as an admission by Dutch Farms that it engaged in such conduct.

3. In the interest of resolving this matter, and as a result of having engaged in comprehensive settlement negotiations, the parties have agreed that this action should be finally

resolved by entry of this Consent Decree (hereafter "Decree"). This Decree fully and finally resolves any and all issues and claims arising out of, or relating to the Complaint filed by the EEOC in this action. This Decree also fully and finally resolves any and all issues and claims that EEOC could have asserted on behalf of Dutch Farms' employees identified to EEOC on October 15, 2002.

FINDINGS

4. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

a. This Court has jurisdiction of the subject matter of this action and of the parties.

b. The terms of this Decree are adequate, fair, reasonable, equitable, and just. The rights of the Charging Party and the public interest are adequately protected by this Decree.

c. This Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of Charging Party, Dutch Farms, EEOC and the public.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

NON-DISCRIMINATION

5. Dutch Farms, its officers, agents (including management personnel), successors, and assigns are enjoined from discriminating against any employee on the basis of race; engaging in any action that is intended or known to have the effect of harassing an employee on the basis of

race; and/or permitting the existence of a work environment that is hostile to employees because of their race. This sentence is not to be construed as an admission that Dutch Farms or its officers, agents, employees (including management personnel), successors or assigns engaged in such conduct in the past.

NON-RETALIATION

6. Dutch Farms, its officers, agents, employees, successors, assigns and all persons acting in concert with it shall not engage in any form of retaliation against any person because such person has opposed any practice made unlawful under Title VII, filed a Charge of Discrimination under Title VII, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under this Decree. This sentence is not to be construed as an admission that Dutch Farms or its officers, agents, employees (including management personnel), successors or assigns engaged in such conduct in the past or ever had any intention of engaging in such conduct.

MONETARY PAYMENT

7. Within five (5) business days after entry of this Decree, the EEOC will mail to class members a copy of the appropriate Release Agreement attached hereto.

8. Within five (5) business days after receipt by the EEOC of the signed Release Agreements, the EEOC shall mail the Release Agreements to Michael Collins, Collins & Collins, 332 South Michigan Ave., Suite 605, Chicago, Illinois 60604.

9. Within five (5) business days after receipt of the Release Agreements, Defendant will pay a total of \$25,000 to be paid by certified check in the amounts specified in each Release

Agreement.

10. On each of the first, second and third anniversaries of this Agreement, Dutch Farms will pay \$5,000 to the Employment, Counseling, and Training Department of the Chicago Urban League, 220 S. State Street, 11th Floor, Chicago, IL 60604, for the purpose of job placement and vocational training.

POSTING OF NOTICE

11. Within five (5) business days after entry of this Decree, Dutch Farms shall post a same-sized copy of the Notice attached as Exhibit A to this Decree at its facility, in a conspicuous location easily accessible to and commonly frequented by employees and applicants for employment of Defendant. The Notice shall remain posted for 12 months from the date of entry of this Decree. Dutch Farms shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Dutch Farms shall certify to the EEOC in writing within ten (10) business days after entry of the Decree that the Notice has been properly posted. Dutch Farms shall permit a representative of the EEOC to enter its premises for purposes of verifying compliance with this Paragraph at any time during normal business hours with prior notice to its counsel.

RECORD KEEPING

12. For a period of three (3) years following entry of this Decree, Dutch Farms shall maintain and make available for inspection and copying by the EEOC records (including name, age, social security number, address, telephone number, complaint and resolution of the complaint) of each person complaining of harassment based on race.

13. Dutch Farms shall make all documents or records referred to in Paragraph 12,

above, available for inspection and copying within five (5) business days after the EEOC so requests from Dutch Farms' counsel.

14. Nothing contained in this Decree shall be construed to limit any obligation Dutch Farms may otherwise have to maintain records under Title VII or any other law or regulation.

REPORTING

15. At the request of the EEOC, Dutch Farms shall furnish to the EEOC the following written reports annually for a period of three (3) years following entry of this Decree. The first report shall be due twelve (12) months after entry of the Decree. The final report shall be due thirty-six (36) months after entry of the Decree. Each such report shall contain:

a. A description of each complaint of racial harassment and the resolution of such complaint, occurring within the twelve (12) month period preceding the report.

b. A certification by Dutch Farms that the Notice required to be posted in Paragraph 11, above, remained posted during entire twelve (12) month period preceding the report.

ADOPTION AND DISTRIBUTION OF POLICY AGAINST RACIAL HARASSMENT

16. Dutch Farms will rename is "Productive Work Environment" policy (Policy 201A of Dutch Farms' Employee Manual) "Productive Work Environment/Anti-Harassment Policy."

17. Within 14 days after the entry of this Consent Decree, Dutch Farms will re-distribute its "Productive Work Environment/Anti-Harassment Policy" to its employees. Dutch Farms shall include the forgoing policy in its Employee Manual and any future employee manuals. Dutch Farms will post the above policy in a conspicuous place customarily used for posting notices from management to employees or other statutory notices.

18. A copy of the above policy shall be distributed to each new permanent or temporary employee on the day the employee is hired.

TRAINING

19. Defendant shall provide training on the requirements of Title VII on the following terms:

a. Defendant shall retain and pay for a consultant/lecturer ("trainer"), approved by the EEOC, to provide training with respect to racial harassment and with respect to the Policy implemented pursuant to Paragraph 16 above. Dutch Farms' attorneys, Michael R. Collins and Patrick Cage are approved as trainers.

b. The training will be provided to all Dutch Farms employees, including temporary employees, employed at the time of the training. A registry of attendance shall be retained by Dutch Farms for the duration of the Consent Decree.

c. Dutch Farms shall first provide training in accordance with Paragraph 19 (a) within ninety (90) calendar days of the entry of this Consent Decree. Dutch Farms shall then also provide such training on at least one occasion in calendar years 2004 and 2005.

20. Other than Michael R. Collins or Patrick Cage, Dutch Farms shall obtain the EEOC's approval of its proposed trainer prior to each year's set of training sessions. Dutch Farms shall submit the name, address, telephone number and resume of the proposed trainer, together with the date(s) of the proposed training sessions to the EEOC within thirty (30) calendar days prior to the first day of the proposed date(s) of training. The EEOC shall have fifteen (15) calendar days to identify an alternate trainer. The EEOC shall have fifteen (15) calendar days from the date of receipt of the information described above to accept or reject the

proposed trainer(s). In the event the EEOC does not approve Dutch Farms's designated trainer(s), Dutch Farms shall have fifteen (15) calendar days from the date of receipt of the information described above to accept or reject the alternate trainer. In the event the EEOC does not approve Dutch Farms's alternate trainer, the EEOC shall designate the trainer to be retained and paid for by Dutch Farms.

21. Dutch Farms agrees to provide the EEOC with any and all copies of pamphlets, brochures, outlines or other written materials provided to the participants of the training sessions. Even though the EEOC has approved of or designated a trainer for trainings one year, it is not required to approve of or designate the same trainer for future training sessions.

22. Dutch Farms shall certify to the EEOC in writing within five (5) business days after the trainings have occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (i) the dates, location and duration of the trainings; (ii) a copy of the registry of attendance, which shall include the name and position of each person in attendance; and (iii) a listing of all current employees, including temporary employees, as of the date of the training.

DISPUTE RESOLUTION

23. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance and shall afford the alleged non-complying party ten (10) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business

days, the complaining party may apply to the Court for appropriate relief.

DURATION OF THE DECREE AND RETENTION OF JURISDICTION

24. All provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of three (3) years immediately following entry of the Decree, provided, however, that if, at the end of the three (3) year period, any disputes under Paragraph 23, above, remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

MISCELLANEOUS PROVISIONS

25. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.

26. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of Defendant.

27. When this Decree requires the submissions by Dutch Farms of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to: Dutch Farms Settlement, c/o Ann Henry, Trial Attorney, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661. When this Decree requires submission by the EEOC of materials to Dutch Farms, they shall be mailed to: Michael Collins, Collins & Collins, 332 South Michigan Ave., Suite 605, Chicago, Illinois 60604.

28. Signatures.

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 453-7568




John C. Hendrickson
Regional Attorney

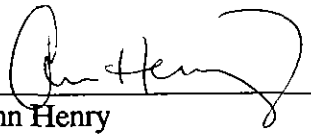
DUTCH FARMS, INC.
700 E. 107th St.
Chicago, Illinois 60628
(773) 660-0900



Brian Boomsma



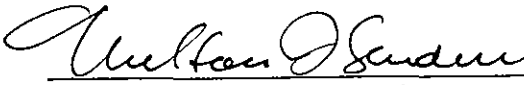
Noelle Brennan
Supervisory Trial Attorney



Ann Henry
Trial Attorney

DATE: April 17, 2003

ENTER:



The Honorable Milton Shadur
United States District Court Judge

EXHIBIT A

NOTICE TO ALL DUTCH FARMS EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Dutch Farms, Inc., No. 02 C 2964 (N.D. Ill.) settling a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Dutch Farms, Inc., ("Dutch Farms").

In its suit, the EEOC alleged that Dutch Farms subjected Bernard Harper and a class of African-America employees to racial harassment in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et. seq.*, ("Title VII"). Dutch Farms denies that it subjected Bernard Harper or any African-American employees to racial harassment in violation of any law and has entered into this settlement to avoid protracted litigation.

To resolve the case, Dutch Farms and the EEOC have entered into a Consent Decree which requires, among other things, that:

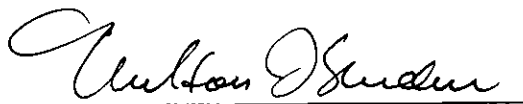
- 1) Dutch Farms will pay \$40,000 as provided in the Consent Decree.
- 2) Dutch Farms will not engage in racial harassment and it will not retaliate against any person because he or she opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree.

The EEOC enforces the federal laws against discrimination in employment on the basis of disability, race, color, religion, national origin, sex, and age. If you believe you have been discriminated against, you may contact the EEOC at (312) 353-8195. The EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for twelve months from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to: Dutch Farms Settlement, EEOC 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

April 17, 2003
Date



The Honorable Milton Shadur
United States District Court Judge

WAIVER AND RELEASE

I, Bernard Harper, for and in consideration of the sum of \$4,000.00, representing all amounts payable to me under the terms of a Consent Decree entered by the Court on (insert date), the sufficiency of which is hereby acknowledged, receipt to be effective upon the payee's endorsement of a check for the above sum, on behalf of myself, my heirs, assigns, executors and agents, do hereby forever release, waive, acquit and discharge DUTCH FARMS, INC., all past and present subsidiaries, divisions, affiliated companies, officers, directors, employees, successors, agents and assigns of DUTCH FARMS, INC. (severally and collectively herein called "Releasee"), from any and all claims, demands, debts, causes of action, obligations, damages, costs (including attorney's fees) and liabilities of any kind or nature which I now have or may ever have had against DUTCH FARMS, INC. under Title VII of the Civil Rights Act of 1964, as amended, as a result of or arising from the claims asserted in Equal Employment Opportunity Commission v. Dutch Farms, Inc., Civil Action No.02 C 2964 in the United States District Court for the Northern District of Illinois, Eastern Division, and I understand and acknowledge that the above consideration is being paid and accepted in settlement of all such disputed claims.

I further affirm that the only consideration of my signing this Waiver and Release ("Release") is the terms stated above, that no other promise or agreement of any kind has been made to or with me by any person or entity whatsoever to cause me to sign the Release. I agree that I am signing this Release knowingly and voluntarily, that I have not been coerced or threatened into signing this Release, that I have not been promised anything else in exchange for signing this Release.

IN WITNESS WHEREOF, the undersigned has executed this Release this _____ day of _____, 2003.

Witnessed By

WAIVER AND RELEASE

I, Michael Thigpen, for and in consideration of the sum of \$6,500.00, representing all amounts payable to me under the terms of a Consent Decree entered by the Court on (insert date), the sufficiency of which is hereby acknowledged, receipt to be effective upon the payee's endorsement of a check for the above sum, on behalf of myself, my heirs, assigns, executors and agents, do hereby forever release, waive, acquit and discharge DUTCH FARMS, INC., all past and present subsidiaries, divisions, affiliated companies, officers, directors, employees, successors, agents and assigns of DUTCH FARMS, INC. (severally and collectively herein called "Releasee"), from any and all claims, demands, debts, causes of action, obligations, damages, costs (including attorney's fees) and liabilities of any kind or nature which I now have or may ever have had against DUTCH FARMS, INC. under Title VII of the Civil Rights Act of 1964, as amended, as a result of or arising from the claims asserted in Equal Employment Opportunity Commission v. Dutch Farms, Inc., Civil Action No.02 C 2964 in the United States District Court for the Northern District of Illinois, Eastern Division, and I understand and acknowledge that the above consideration is being paid and accepted in settlement of all such disputed claims.

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IN WITNESS WHEREOF, the undersigned has executed this Release this _____ day of _____, 2003.

Witnessed By

WAIVER AND RELEASE

I, Royce O'Hara, for and in consideration of the sum of \$6,500.00, representing all amounts payable to me under the terms of a Consent Decree entered by the Court on (insert date), the sufficiency of which is hereby acknowledged, receipt to be effective upon the payee's endorsement of a check for the above sum, on behalf of myself, my heirs, assigns, executors and agents, do hereby forever release, waive, acquit and discharge DUTCH FARMS, INC., all past and present subsidiaries, divisions, affiliated companies, officers, directors, employees, successors, agents and assigns of DUTCH FARMS, INC. (severally and collectively herein called "Releasee"), from any and all claims, demands, debts, causes of action, obligations, damages, costs (including attorney's fees) and liabilities of any kind or nature which I now have or may ever have had against DUTCH FARMS, INC. under Title VII of the Civil Rights Act of 1964, as amended, as a result of or arising from the claims asserted in Equal Employment Opportunity Commission v. Dutch Farms, Inc., Civil Action No.02 C 2964 in the United States District Court for the Northern District of Illinois, Eastern Division, and I understand and acknowledge that the above consideration is being paid and accepted in settlement of all such disputed claims.

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IN WITNESS WHEREOF, the undersigned has executed this Release this _____ day of _____, 2003.

Witnessed By

WAIVER AND RELEASE

I, Samuel Clark, for and in consideration of the sum of \$2,000.00, representing all amounts payable to me under the terms of a Consent Decree entered by the Court on (insert date), the sufficiency of which is hereby acknowledged, receipt to be effective upon the payee's endorsement of a check for the above sum, on behalf of myself, my heirs, assigns, executors and agents, do hereby forever release, waive, acquit and discharge DUTCH FARMS, INC., all past and present subsidiaries, divisions, affiliated companies, officers, directors, employees, successors, agents and assigns of DUTCH FARMS, INC. (severally and collectively herein called "Releasee"), from any and all claims, demands, debts, causes of action, obligations, damages, costs (including attorney's fees) and liabilities of any kind or nature which I now have or may ever have had against DUTCH FARMS, INC. under Title VII of the Civil Rights Act of 1964, as amended, as a result of or arising from the claims asserted in Equal Employment Opportunity Commission v. Dutch Farms, Inc., Civil Action No.02 C 2964 in the United States District Court for the Northern District of Illinois, Eastern Division, and I understand and acknowledge that the above consideration is being paid and accepted in settlement of all such disputed claims.

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IN WITNESS WHEREOF, the undersigned has executed this Release this _____ day of _____, 2003.

Witnessed By

WAIVER AND RELEASE

I, Carl Craig, for and in consideration of the sum of \$1,000.00, representing all amounts payable to me under the terms of a Consent Decree entered by the Court on (insert date), the sufficiency of which is hereby acknowledged, receipt to be effective upon the payee's endorsement of a check for the above sum, on behalf of myself, my heirs, assigns, executors and agents, do hereby forever release, waive, acquit and discharge DUTCH FARMS, INC., all past and present subsidiaries, divisions, affiliated companies, officers, directors, employees, successors, agents and assigns of DUTCH FARMS, INC. (severally and collectively herein called "Releasee"), from any and all claims, demands, debts, causes of action, obligations, damages, costs (including attorney's fees) and liabilities of any kind or nature which I now have or may ever have had against DUTCH FARMS, INC. under Title VII of the Civil Rights Act of 1964, as amended, as a result of or arising from the claims asserted in Equal Employment Opportunity Commission v. Dutch Farms, Inc., Civil Action No.02 C 2964 in the United States District Court for the Northern District of Illinois, Eastern Division, and I understand and acknowledge that the above consideration is being paid and accepted in settlement of all such disputed claims.

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IN WITNESS WHEREOF, the undersigned has executed this Release this _____ day of _____, 2003.

Witnessed By

WAIVER AND RELEASE

I, Tamika Shipp, for and in consideration of the sum of \$2,000.00, representing all amounts payable to me under the terms of a Consent Decree entered by the Court on (insert date), the sufficiency of which is hereby acknowledged, receipt to be effective upon the payee's endorsement of a check for the above sum, on behalf of myself, my heirs, assigns, executors and agents, do hereby forever release, waive, acquit and discharge DUTCH FARMS, INC., all past and present subsidiaries, divisions, affiliated companies, officers, directors, employees, successors, agents and assigns of DUTCH FARMS, INC. (severally and collectively herein called "Releasee"), from any and all claims, demands, debts, causes of action, obligations, damages, costs (including attorney's fees) and liabilities of any kind or nature which I now have or may ever have had against DUTCH FARMS, INC. under Title VII of the Civil Rights Act of 1964, as amended, as a result of or arising from the claims asserted in Equal Employment Opportunity Commission v. Dutch Farms, Inc., Civil Action No.02 C 2964 in the United States District Court for the Northern District of Illinois, Eastern Division, and I understand and acknowledge that the above consideration is being paid and accepted in settlement of all such disputed claims.

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IN WITNESS WHEREOF, the undersigned has executed this Release this _____ day of _____, 2003.

Witnessed By

WAIVER AND RELEASE

I, Juan Stamps, for and in consideration of the sum of \$3,000.00, representing all amounts payable to me under the terms of a Consent Decree entered by the Court on (insert date), the sufficiency of which is hereby acknowledged, receipt to be effective upon the payee's endorsement of a check for the above sum, on behalf of myself, my heirs, assigns, executors and agents, do hereby forever release, waive, acquit and discharge DUTCH FARMS, INC., all past and present subsidiaries, divisions, affiliated companies, officers, directors, employees, successors, agents and assigns of DUTCH FARMS, INC. (severally and collectively herein called "Releasee"), from any and all claims, demands, debts, causes of action, obligations, damages, costs (including attorney's fees) and liabilities of any kind or nature which I now have or may ever have had against DUTCH FARMS, INC. under Title VII of the Civil Rights Act of 1964, as amended, as a result of or arising from the claims asserted in Equal Employment Opportunity Commission v. Dutch Farms, Inc., Civil Action No.02 C 2964 in the United States District Court for the Northern District of Illinois, Eastern Division, and I understand and acknowledge that the above consideration is being paid and accepted in settlement of all such disputed claims.

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IN WITNESS WHEREOF, the undersigned has executed this Release this _____ day of _____, 2003.

Witnessed By