

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

DOCKETED

DEC 26 2002

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)
UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION)

)
)
Plaintiff,)

)
)
and)

GOLF GALAXY, INC.)
)
)

)
)
Defendant.)

01 C 7397

Judge George Lindberg

CONSENT DECREE

THE LITIGATION

1. Plaintiff Equal Employment Opportunity Commission ("EEOC") filed this action alleging Defendant, Golf Galaxy, Inc. ("Defendant" or "Golf Galaxy"), violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et. seq.*, ("Title VII") by discriminating against Charging Party Kelly Colonero the basis of sex. Specifically, EEOC alleged that Defendant, at its Naperville, Illinois facility violated Title VII by subjecting Colonero to a sexually hostile work environment, retaliating against her for complaining about the harassment and constructively discharging Colonero. Golf Galaxy denies the allegations of the Complaint.

2. In the interest of resolving this matter and avoiding time and future costs of continuing the litigation 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 ("Decree"). This Decree fully and finally resolves any and all issues and claims arising out of the Complaint filed by EEOC in this action.

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FINDINGS

3. 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 right of the Complainant 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 Kelly Colonero, Golf Galaxy, EEOC and the public.

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

NON-DISCRIMINATION

4. Defendant acknowledges its responsibility under Title VII to maintain a sexually hostile-free work environment and accordingly, Golf Galaxy, its officers, agents (including management personnel), successors, and assigns are enjoined from discriminating on the basis of sex.

NON-RETALIATION

5. Golf Galaxy, 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.

EFFECT OF DECREE

7. By entering into this Consent Decree Defendant does not admit that it violated Title VII.

MONETARY RELIEF FOR COMPLAINANT

8. The total amount of money to be paid by Defendant is eighty thousand dollars (\$80,000) for settlement for the damages claimed in this case.

9. Within five (5) business days after entry of this Decree, EEOC will mail a copy of the Release Agreement, attached as Exhibit A, and I.R.S. Form W-9 to Kelly Colonero.

10. Within five (5) business days after receipt by Colonero of the Release Agreement and I.R.S. Form W-9, Colonero shall mail the signed Release Agreement and completed I.R.S. Form W-9 to Lauren G. Dreilinger, EEOC, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

11. Within five (5) business days after receipt of the Release Agreement and completed I.R.S. Form W-9, EEOC shall mail the signed Release Agreement and I.R.S. Form W-9 to Durga Bharam, Tressler, Soderstom, Maloney & Priess, Sears Tower, 22nd Floor, 233 South Wacker Drive, Chicago, Illinois 60606-6308.

12. Within five (5) business days after receipt of the Release Agreement and completed I.R.S. Form W-9 Defendant will issue and tender to Kelly Colonero a payroll check in the amount of ten thousand dollars (\$10,000) in back-pay minus applicable withholdings and a separate check(s) in the amount of seventy thousand dollars (\$70,000) in other damages. Golf Galaxy (and/or its insurance company) shall issue Colonero an I.R.S. Form 1099misc for the

seventy thousand dollars (\$70,000). EEOC shall provide Defendant with Colonero's current address.

POSTING OF NOTICE

13. Within five (5) business days after entry of this Decree, Golf Galaxy shall post a same-sized copy of the Notice attached as Exhibit B to this Decree at all facilities in the Chicagoland area supervised by District Manager Cathy Porto, prior to the entry of this Decree, including the stores in Naperville, Downer's Grove, Schaumburg, Vernon Hills, and Orland Park, Illinois and at its Retail Support Office in Minnesota in a conspicuous location easily accessible to and commonly frequented by employees of Golf Galaxy. The Notice shall remain posted for two (2) years from the date of entry of this Decree. Golf Galaxy shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Golf Galaxy shall certify to EEOC in writing within ten (10) business days after entry of the Decree that the Notice has been properly posted. Golf Galaxy shall permit a representative of EEOC to enter Golf Galaxy's premises for purposes of verifying compliance with this Paragraph at any time during normal business hours without prior notice. The EEOC representative shall display his/her EEOC identification card to the manager on duty.

RECORD KEEPING

15. For a period of two (2) years following entry of this Decree, Golf Galaxy shall maintain and make available for inspection and copying by EEOC records (including name, age, social security number, address, telephone number, complaint and resolution of the complaint) of each person complaining about discrimination on the basis of sex and/or retaliation. Information

identifying Golf Galaxy employees produced pursuant to this Decree will only be used to facilitate compliance with this Decree.

16. Golf Galaxy shall make all documents or records referred to in Paragraphs 15 and 22, available for inspection and copying within five (5) business days after EEOC so requests. In addition, Golf Galaxy shall reasonably make available all persons within its employ whom EEOC reasonably requests and identifies for purposes of verifying compliance with this Decree and shall permit a representative of EEOC to enter Golf Galaxy's premises for such purposes on five (5) business days advance notice by EEOC. Moreover, Golf Galaxy shall permit employees whom EEOC reasonably requests to interview for the purposes of verifying compliance with this Decree to come to EEOC Chicago District Office to be interviewed. In the event that EEOC is unable to contact an employee for purposes of verifying compliance with this Decree, it shall notify Golf Galaxy and Golf Galaxy shall, within five (5) business days, provide EEOC with the employee's scheduled hours of work over the next fourteen (14) day period so that EEOC can conduct these interviews at these employees' breaks, at the end of the day, or at some other time convenient to the employee and EEOC. Golf Galaxy agrees that it will not discourage employees from participating in these interviews, however, it will not be responsible for any associated costs of said participation, including any travel costs and incidental expenses such as paid time off.

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

REPORTING

18. Golf Galaxy shall furnish to EEOC the following written reports twice annually for a period of two (2) years following entry of this Decree. The first report shall be due six (6)

months after entry of the Decree. The final report shall be due twenty-four (24) months after entry of the Decree. Each such report shall contain:

i. A description of each complaint of sex harassment, sex discrimination and/or retaliation, including the names of the complaining parties and witnesses and the resolution of such complaint, occurring within the six (6) month period preceding the report. Information identifying Golf Galaxy employees produced pursuant to this Decree will only be used to facilitate compliance with this Decree.

ii. A certification by Golf Galaxy that the Notice required to be posted in Paragraph 10, above, remained posted during the entire six (6) month period preceding the report.

ADOPTION AND DISTRIBUTION OF NEW POLICY AGAINST SEX HARASSMENT

19. Golf Galaxy shall create a new anti-discrimination policy ("Policy") to be distributed to all current and future employees within thirty (30) days after entry of this Consent Decree. The Policy shall clearly define prohibited conduct and specifically prohibit insinuating sexual comments, insults, jokes, intimidation, and unwelcome touching such as deliberately brushing up against a person. The Policy shall provide that complaints of sexual harassment may be made to any person in the chain of command above an employee or directly to human resources personnel; employees who make complaints of harassment or provide information related to such complaints will be protected against retaliation; employees will not be required to complain of harassment to a person against whom they allege harassment; the employer will protect the confidentiality of harassment complaints to the extent possible; the employer will take immediate and appropriate corrective action if and when it determines that harassment has

occurred; employees who violate the policy are subject to discipline up to and including discharge.

20. A copy of the Policy shall be forwarded to EEOC within thirty (30) days of entry of this Consent Decree.

21. The Policy shall be distributed to all of Defendant's employees and management staff and shall be included in any relevant policy or employee manuals kept by Defendant's business. The Policy shall also be kept and maintained in a conspicuous and accessible place for all employees at all of Golf Galaxy's facilities and printed in a font that is easily legible (at least 11 point font).

22. A copy of the Policy shall be distributed to each new regular full-time, part-time, or temporary employee on the day the employee is hired. The manager responsible for distributing the Policy to each new employee shall review the Policy in depth with the employee. Golf Galaxy shall maintain records demonstrating that each new employee discussed the Policy with the responsible manager and illustrating the length of time spent discussing the Policy.

TRAINING

23. During each of the two (2) years covered by this Decree, Defendant shall provide training to all store employees at all facilities in the Chicagoland area supervised by District Manager Cathy Porto, prior to the entry of this Decree, including the stores in Naperville, Downer's Grove, Schaumburg, Vernon Hills, and Orland Park, Illinois and all Golf Galaxy management personnel nationwide, including District Managers and General Sales Managers, on equal employment opportunity laws (including sex harassment and retaliation) and the new Policy. The first training shall take place within ninety (90) days of entry of this Decree. The

second training shall take place no later than eighteen (18) months after the first training.

24. Within ten (10) calendar days of the completion of the training, Golf Galaxy shall notify EEOC of the dates the training was conducted, the name and job title of the person(s) who conducted the training, and the name and job title of each person who received the training.

25. Golf Galaxy agrees to provide EEOC , upon request, with any and all copies of pamphlets, brochures, outlines or other written materials provided to the participants of the training sessions.

DISPUTE RESOLUTION

26. In the event that any party to this Decree believes that another 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, which shall not exceed the terms of this decree.

DURATION OF THE DECREE AND RETENTION OF JURISDICTION

27. 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 two (2) years immediately following entry of the Decree, provided, however, that if, at the end of the two (2) year period, any disputes under Paragraph 26, 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

28. Any press release issued by any party shall be forwarded to the other party at the same time and by the same method as the issued press release.

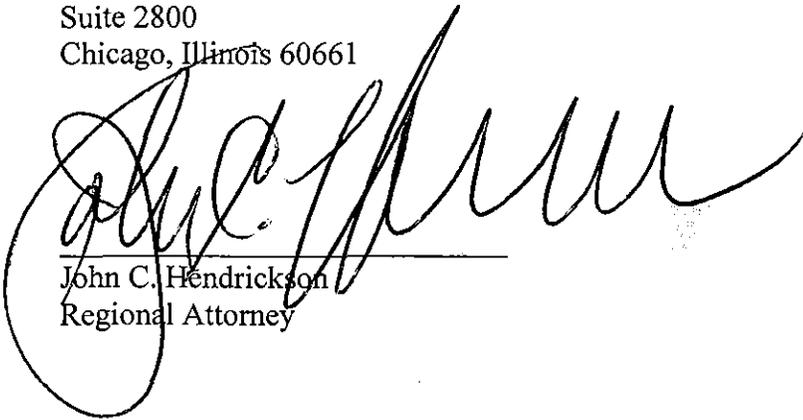
29. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.

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

30. When this Decree requires the submission by Golf Galaxy of reports, certifications, notices, or other materials to EEOC, they shall be mailed to: Golf Galaxy Settlement, c/o Lauren Dreilinger, Trial Attorney, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661. When this Decree requires submission by EEOC of materials to Golf Galaxy, they shall be mailed to: Durga Bharam, Tressler, Soderstrom, Maloney & Priess, Sears Tower, 22nd Floor, 233 South Wacker Drive, Chicago, Illinois 60606-6308 and Kate Law, Director of Human Resources, c/o Golf Galaxy, Inc., 7725 Washington Avenue, Suite 250, Edina, Minnesota 55439.

For the EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

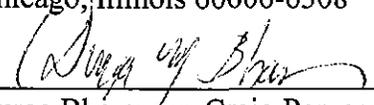
500 West Madison Street
Suite 2800
Chicago, Illinois 60661



John C. Hendrickson
Regional Attorney

For GOLF GALAXY, INC.

Durga Bharam or Craig Penrose
Tressler, Soderstrom, Maloney &
Priess
Sears Tower, 22nd Floor
233 South Wacker Drive
Chicago, Illinois 60606-6308



Durga Bharam or Craig Penrose

Noelle Brennan

Noelle Brennan
Supervisory Trial Attorney

Lauren G. Dreilinger

Lauren G. Dreilinger
Trial Attorney

DATE: DEC 23 2002

ENTER:

George Lindberg
The Honorable George Lindberg
United States District Court Judge

EXHIBIT A**RELEASE AGREEMENT**

I, Kelly Colonero, for and in consideration of the sum of \$ 80,000, payable to me pursuant to the terms of the Consent Decree entered by the Court in EEOC v. Golf Galaxy, Inc., No. 01 C 7397 (N.D. Ill.), on behalf of myself, my heirs, assigns, executors, and agents, do hereby forever release, waive, remise, acquit, and discharge Golf Galaxy, Inc. ("Golf Galaxy"), and all past and present shareholders, officers, agents, employees, and representatives of Golf Galaxy, as well as all successors and assignees of Golf Galaxy, from any and all claims and causes of action of any kind which I now have or ever have had under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., as a result of or arising from the subject matter and claims which were or which could have been asserted in EEOC v. Golf Galaxy, Inc. , No. 01 C 7397 (N.D. Ill.).

Date

Kelly Colonero

EXHIBIT B

NOTICE TO ALL GOLF GALAXY, INC. EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Golf Galaxy, Inc., No. 01 C 7397 (N.D. Ill.) settling a lawsuit filed by the Equal Employment Opportunity Commission (“EEOC”) against Golf Galaxy Inc., (“Golf Galaxy”).

In its suit, EEOC alleged that Golf Galaxy subjected Kelly Colonero to a sexually hostile work environment, retaliated against Colonero for complaining about harassment and constructively discharged Colonero in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et. seq., (“Title VII”) . Golf Galaxy denies the allegations made by EEOC and Colonero.

To resolve the case, Golf Galaxy and EEOC have entered into a Consent Decree in the interests of resolving this matter and to avoid the time and further costs of the litigation and as a result of having engaged in comprehensive settlement negotiations, which requires, among other things, that:

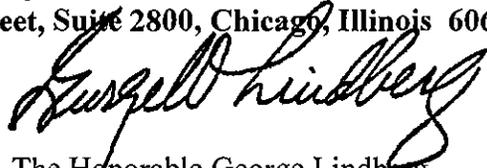
- 1) Golf Galaxy will pay a certain sum to Colonero in settlement of the claims;
- 2) Golf Galaxy will not discriminate on the basis of sex;
- 3) Golf Galaxy will not retaliate against any person because he or she opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree.

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 EEOC at (312) 353-8195. 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 two (2) years 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: Golf Galaxy Settlement, EEOC 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

December 23, 2002
Date:


The Honorable George Lindberg
United States District Court Judge