

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MARYLAND
NORTHERN DIVISION

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JUL 28 2004

CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND

BY

DEPUTY

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

BRINKER INTERNATIONAL, INC., et. al.

Defendants.

Civil Action No. RDB-04-1834

CONSENT DECREE

This action was instituted by Plaintiff, the U.S. Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendants Brinker International, Inc., Chili's of Maryland, Inc., and Chili's of Bel Air, Inc., ("Defendants"), alleging that Defendants violated of Sections 703(a) and 704(a) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. Section 2000e-2(1) and 2000e-3(a), by subjecting Barbara Dorris, Dana Heusler, Ashley Barranco, Meredith Boyle and other female employees to a sexually hostile and offensive work environment and by discharging Barbara Dorris in retaliation for her sexual harassment complaints. Defendants deny these allegations.

The Commission and Defendants desire to resolve this action without the time and expense of continued litigation, and they desire to formulate a plan to be embodied in a Decree which will promote and effectuate the purposes of Title VII.

(7)

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and Title VII. Therefore, upon due consideration of the record herein and being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED:

Scope of Decree

1. This Decree resolves all issues and claims in the Complaint filed by the Commission in this Title VII action which emanated from the Charges of Discrimination filed by Barbara Dorris, Dana Heusler, Ashley Barranco, and Meredith Boyle.

2. This Decree shall be in effect for a period of two years from the date it is entered by the Court. During that time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate the purposes of the Decree.

3. This Decree, being entered with the consent of the EEOC and Defendants, shall not constitute an adjudication or finding on the merits of the case.

Monetary Relief

4. Defendants shall pay \$283,000 to resolve this action. The total shall be distributed as follows:

- a. Within ten business days of entry of this Decree, Defendants shall pay Charging Party Barbara Dorris monetary relief in the total amount of \$60,000 in compensatory damages. The check will be sent directly to Ms. Dorris, and a photocopy of the check and related correspondence will be mailed to the EEOC,

Baltimore District Office, 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201. Defendants will issue to Ms. Dorris a United States Internal Revenue Services Form 1099 for the 2004 tax year for the compensatory damages amounts paid to her.

- b. Within ten business days of entry of this Decree, Defendants shall pay Charging Party Dana Heusler monetary relief in the total amount of \$50,000 in compensatory damages. The check will be sent directly to Ms. Heusler, and a photocopy of the check and related correspondence will be mailed to the EEOC, Baltimore District Office, 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201. Defendants will issue to Ms. Heusler a United States Internal Revenue Services Form 1099 for the 2004 tax year for the compensatory damages amounts paid to her.
- c. Within ten business days of entry of this Decree, Defendants shall pay Charging Party Ashley Barranco monetary relief in the total amount of \$50,000 in compensatory damages. The check will be sent directly to Ms. Barranco, and a photocopy of the check and related correspondence will be mailed to the EEOC, Baltimore District Office, 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201. Defendants will issue to Ms. Barranco a United States Internal Revenue Services Form 1099 for the 2004 tax year for the compensatory damages amounts paid to her.

- d. Within ten business days of entry of this Decree, Defendants shall pay Charging Party Meredith Boyle monetary relief in the total amount of \$50,000 in compensatory damages. The check will be sent directly to Ms. Boyle, and a photocopy of the check and related correspondence will be mailed to the EEOC, Baltimore District Office, 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201. Defendants will issue to Ms. Boyle a United States Internal Revenue Services Form 1099 for the 2004 tax year for the compensatory damages amounts paid to her.
- e. Within ten business days of entry of this Decree, Defendants shall pay Charging Parties' counsel of record, Kramon & Graham, P.A., \$33,000 representing attorneys' fees. The check will be sent directly to Kramon & Graham, P.A., One South Street, Suite 2600, Baltimore, Maryland 21202-3201, and a photocopy of the check will be mailed to the EEOC, Baltimore District Office, 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201.
- f. Defendants shall pay the amount of \$40,000 to be distributed to Eligible Claimants as defined in Paragraph 5 below and whose names, current addresses, and amounts payable to each will be furnished by the Commission to Defendants within 90 calendar days of the date of entry of the Consent Decree. All of the monetary relief paid to the Eligible Claimants pursuant to this Decree is acknowledged to be compensatory damages under Title VII.

Relief to "Eligible Claimants"

5. "Eligible Claimants" are defined as all female employees who worked with and/or under the supervision of Assistant Manager Jim Smith at Defendants' Bel Air facility during the period of March 2001 through January 2003 and who the Commission determines were subjected to inappropriate comments and touching of a sexual nature by Mr. Smith during the course of their employment.

6. Within five business days of the date of entry of the Consent Decree, Defendants shall provide the Commission with a list of the names, social security numbers and last known phone numbers and addresses of each female employee who worked with and/or under the supervision of Assistant Manager Jim Smith at Defendants' Bel Air facility.

7. Within ten business days of written notice by the Commission, Defendants shall mail all checks directly to each Eligible Claimant at the current address provided by EEOC and will issue United States Internal Revenue Form 1099s for the 2004 tax year to all Eligible Claimants for all payments. Within ten business days of payment to each Eligible Claimant, Defendants will submit a copy of each check and related correspondence to the EEOC, Baltimore District Office, 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201.

8. Defendants shall promptly notify the EEOC in writing if any checks issued to Eligible Claimants are returned or are not cashed after a period of thirty calendar days has elapsed after being mailed.

9. In the event that the Commission determines that there are no Eligible Claimants or in the event that there is a monetary amount remaining after distribution, Defendants shall distribute the remaining amount to the National Partnership for Women and Families.

Injunctive Relief

10. Defendants, their officers, agents, servants, employees, successors, assigns, and all persons acting or claiming to act on their behalf are hereby enjoined from sexually harassing, and condoning the sexual harassment of, any employee of Defendants. The prohibited harassment includes the use of offensive or derogatory comments, or other verbal or physical conduct based on an individual's sex, which creates an intimidating, hostile, or offensive working environment, or interferes with the individual's work performance. Such sex-based harassment violates Title VII, which, in part, is forth below:

It shall be an unlawful employment practice for an employer --

(1) to discriminate against any individual with respect to [her] ... terms, conditions, or privileges of employment, because of such individual's ... sex

42 U.S.C. § 2000e-2(1) Defendants, their officers, agents, servants, employees, successors, assigns, and all persons acting or claiming to act on their behalf are further enjoined from retaliating against any employee of Defendants who complains of sexual harassment, as set forth in the following provision:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees ... because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

42 U.S.C. § 2000e-3(a).

11. Within 90 calendar days after the entry of this Decree, Defendants will provide at least two hours of training on preventing sexual harassment in the workplace for all employees and managers who are still employed at Defendants' Bel Air Chili's Grill & Bar location. Defendants will also provide the same training to the following managers: Michael Lechner, John Roemer, Eric Halfpap, and Mike Tuhy. This training shall be conducted by either Susan Sandidge or Ella Namksy who are attorneys with the Brinker Legal Department. Defendants will obtain prior approval from the EEOC of the materials to be used and topics to be discussed during the training. Within ten business days of providing such training sessions, Defendants will furnish EEOC with a signed attendance list, the date and duration of the training, an outline of the training conducted, and a certification of completion of the mandatory training.

Notice Posting

12. Within ten business days after entry of this Decree, Defendants will post the Notice attached hereto in all places where notices to employees are customarily posted at Defendants' Bel Air Chili's Grill & Bar location. The Notice shall be posted and maintained for the duration of the Decree and shall be signed by the Defendant Brinker International's President and CEO, Douglas H. Brooks, with the date of actual posting shown thereon. Should the Notice become defaced, marred, or otherwise made unreadable, Defendants will ensure that new readable copies of the Notice are posted in the same manner as heretofore specified. Within thirty calendar days of entry of the Decree, Defendants shall forward to the EEOC's Baltimore District Office, a copy of the signed Notice and written certification that the Notice referenced herein has been posted and a statement of the locations and dates of posting.

Reporting

13. Every 90 days following the entry of this Consent Decree, and continuing throughout the life of the Decree, Defendants will report in writing to the Commission's counsel of record concerning the implementation of this Decree. The report will include the following information:

Copies of any formal or informal complaints of sexual harassment made by any employee who works at Defendants' Bel Air Chili's Grill & Bar location, including but not limited to internal complaints, administrative charges, and lawsuits, and for every complaint, whether oral or written, the name of the complainant, and a detailed explanation of Defendants' actions taken in response to the complaint, including any investigative and corrective measures taken.

14. The Commission and Defendants shall bear their own costs and attorneys' fees.

15. The undersigned counsel of record in the above-captioned action hereby consent, on behalf of their respective clients, to the entry of the foregoing Consent Decree.

FOR DEFENDANTS:

Melissa Menkel Shorey

Melissa Menkel Shorey, Esq.
Whiteford, Taylor & Preston
Seven Saint Paul Street
Baltimore, MD 21202-1626

FOR PLAINTIFF:

Gerald S. Kiel

Gerald S. Kiel
Regional Attorney

Debra M. Lawrence

Debra M. Lawrence
Supervisory Trial Attorney

Maria Salacuse

Maria Salacuse, Trial Attorney
Equal Employment Opportunity Commission
Baltimore District Office
10 South Howard Street, 3rd Floor
Baltimore, MD 21201

SO ORDERED.

Signed and entered this 28th day of July, 2004.

Richard D. Bennett

Richard D. Bennett
United States District Judge



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

This Notice is being posted as part of an agreement between the Equal Employment Opportunity Commission ("EEOC") and Brinker International, Inc., Chili's of Maryland, Inc., and Chili's of Bel Air, Inc. ("Chili's") which outlines Chili's obligations under Title VII of the Civil Rights Act of 1964, as amended.

Title VII prohibits employment discrimination based on sex, race, color, national origin, or religion. Unlawful discrimination can take the form of harassment based on one of these protected categories. Title VII also prohibits retaliation against individuals who have complained of or opposed discrimination.

Brinker International and Chili's WILL NOT engage in any acts or practices made unlawful under Title VII.

Brinker International and Chili's WILL NOT tolerate sexually offensive comments or conduct in the workplace.

Brinker International and Chili's WILL NOT retaliate against any individual for complaining of or opposing discrimination.

Brinker International and Chili's policy strongly urges those persons who believe that they have been subjected to unlawful harassment to report it to a manager, General Manager, Area Director or the company's Director of Human Resources. The Director of Human Resources may be reached at 1-888-224-7484. All complaints will be responded to promptly and appropriately.

If you have a complaint of employment discrimination or questions regarding laws prohibiting employment discrimination, you may seek assistance from the EEOC by visiting the EEOC's Baltimore District Office at 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201 or by calling (410) 962-3932. General information may also be obtained on the Internet at www.eeoc.gov.

Douglas H. Brooks
President & CEO
Brinker International, Inc.

Date Posted: