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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 EQUAL EMPLOYMENT OPPORTUNITY)
10 COMMISSION,) No.: CIV 06-2099-PHX-SMM
11 Plaintiff,) Order
12 vs.)
13 MRS ASSOCIATES, INC.,)
14 Defendant.)

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16 Pending before the Court is the parties' Joint Stipulation Re: Settlement. (Dkt.
17 41). Good cause appearing,

18 **IT IS HEREBY ORDERED APPROVING** the parties' Joint Stipulation Re:
19 Settlement. (Dkt. 41)

20 **IT IS FURTHER ORDERED** that the parties shall abide by the terms of the
21 attached Settlement Agreement. The Court shall retain jurisdiction over any action to
22 enforce the Settlement Agreement for eighteen months following the entry of this Order
23 provided, that upon application by the Commission and good cause showing, the Court
24 may extend the duration of its jurisdiction of this action to enforce compliance with the
25 Settlement Agreement as set forth in the agreement.

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IT IS FURTHER ORDERED that this action is **DISMISSED WITH PREJUDICE**, with each party to bear its own costs and attorneys' fees incurred in this action as of the date of the entry of this order.

Dated this 21st day of August, 2007.


Stephen M. McNamee
United States District Judge

SETTLEMENT AGREEMENT

INTRODUCTION

The United States Equal Employment Opportunity Commission (the “Commission” or “EEOC”) filed its Complaint against MRS Associates, Inc. (“Defendant” or “MRS”) to enforce Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (Title VII), the Civil Rights Act of 1991, 42 U.S.C. §1981a, and the Equal Pay Act of 1963, 29 U.S.C. § 206 *et seq.* (EPA). The EEOC alleged in the Complaint that MRS discriminated against Lisa Kradel and class member Alana Chavez on the basis of their sex by subjecting them to sexual harassment. The Commission also alleged Defendant retaliated against Ms. Kradel by firing her after she complained about the harassment and that Defendant violated Title VII and the EPA by paying Ms. Kradel lower wages than her male successor.

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 resolved by this Settlement Agreement. The parties do not object to the jurisdiction of the Court over this action.

1. This Settlement Agreement resolves all claims of the Commission against Defendant, including compensatory and punitive damages, liquidated damages, interest and injunctive relief.

2. The parties agree that the Court has jurisdiction over the parties and the subject matter of this Action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S. Code § 2000e *et seq.* and Equal Pay Act of 1963, 29 U.S.C. § 206 *et seq.*

3. Unless otherwise specified, any reference to Defendant in this Settlement Agreement refers to the Defendant’s Arizona location(s), only.

4. This Settlement Agreement and its terms shall not be construed as an admission of liability whatsoever on the part of MRS Associates, Inc., by whom liability

1 is and always has been denied. This agreement is made solely in compromise and
2 settlement of disputed claims.

3 **INJUNCTION**

4 5. Defendant, and its successors and assigns, and all persons in active concert
5 or participation with it, both at the time that this Settlement Agreement becomes effective
6 and for the duration of this Settlement Agreement, are enjoined from: (a) sexually
7 harassing any employee; (b) paying lower wages to any employee based on sex; and (c)
8 retaliating against any employee because he or she: (i) opposes or opposed
9 discriminatory practices made unlawful by Title VII; (ii) files or filed a charge of
10 discrimination or assists, assisted, participates, or participated in the filing of a charge of
11 discrimination; or (iii) assists, assisted, participates, or participated in an investigation or
12 proceeding brought under the federal and state laws prohibiting discrimination or
13 retaliation. Nothing in this Injunction shall alter the process or procedures by which
14 charges of discrimination or retaliation against defendant, if any, are processed and
15 investigated.

16 **MONETARY RELIEF**

17 6. Defendant shall pay the gross sum of \$157,500.00 ("Settlement Amount")
18 in damages as full settlement of all of the claims made in this lawsuit. Out of this
19 amount, \$127,500.00 will be allocated to Ms. Kradel and \$30,000.00 to Ms. Chavez. It is
20 agreed that the funds paid pursuant to this Settlement Agreement shall be designated as
21 compensatory damages.

22 7. Defendant will not condition the receipt of individual relief on Ms. Kradel's
23 or Ms. Chavez's agreement to (a) maintain as confidential the terms of this decree, or (b)
24 waive their statutory right to file a charge with any federal or state anti-discrimination
25 agency.

26 8. Defendant shall pay the settlement amounts specified in paragraph six (6)
27 of this Settlement Agreement to Ms. Kradel and Ms. Chavez in immediately negotiable
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1 funds within ten (10) days of entry of this Settlement Agreement at addresses provided by
2 the Commission.

3 9. Defendant shall issue United States Internal Revenue Service Form 1099 to
4 Ms. Kradel and Ms. Chavez for amounts designated as compensatory damages for the tax
5 year during which payment is made.

6 10. Within five business days of the issuance of the settlement monies,
7 Defendant shall submit copies of the payment to Ms. Kradel and Ms. Chavez and all
8 related correspondence to Mary Jo O'Neill, Regional Attorney, Equal Employment
9 Opportunity Commission, 3300 North Central Avenue, Suite 690, Phoenix, Arizona
10 85012.

11 **NOTICE**

12 11. Within thirty (30) days of the entry of this Settlement Agreement,
13 Defendant shall post the Notice attached as Exhibit A in a prominent place frequented by
14 its employees at its facilities located in the state of Arizona. The Notice shall remain so
15 posted for eighteen months. The Notice shall be the same type, style and size as set forth
16 in Attachment A to this Settlement Agreement.

17 **OTHER RELIEF**

18 12. Defendant agrees to carry out policies and practices at its facilities in the
19 state of Arizona that help assure a work environment free from sexual harassment and
20 wage discrimination and that allows employees to raise concerns, or complaints without
21 retaliation about matters, whether alleged, perceived or actual, made unlawful by Title
22 VII and the EPA.

23 13. Within thirty (30) days of the entry of this Settlement Agreement,
24 Defendant shall establish and maintain a written policy that prohibits discrimination
25 based on gender, including sexual harassment and wage discrimination, as well as a
26 policy against retaliation. This policy shall be circulated to all of Defendant's employees
27 within thirty (30) days. These written policies must include at a minimum:
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1 A. A strong and clear commitment to a workplace free of wage
2 discrimination and unlawful termination based on sex;

3 B. A clear and complete definition of wage discrimination and unlawful
4 termination based on sex;

5 C. A statement that wage discrimination and unlawful termination
6 based on sex is prohibited and will not be tolerated;

7 D. A clear and strong encouragement of persons who believe they have
8 been subjected to wage discrimination or unlawful termination based on sex to come
9 forward;

10 E. The identification of specific individuals, internal and external to
11 Defendant, with their telephone numbers, to whom employees who have been subjected
12 to sexual harassment, wage discrimination or retaliation, can report the unlawful conduct,
13 including a written statement that employees may report the unlawful conduct to
14 designated persons outside of their chain of management. The statement shall explain
15 that, should a non-English speaking employee seek to report sexual harassment, wage
16 discrimination or retaliation, Defendant shall retain an interpreter for purposes of taking
17 the report and further communicating with the employee about the reported incidents;

18 F. An assurance that Defendant will investigate allegations of sexual
19 harassment, wage discrimination and retaliation promptly, fairly, reasonably and
20 effectively, using appropriate investigators and that appropriate corrective action will be
21 taken by Defendant to make victims whole and to eradicate the unlawful conduct.

22 G. A description of the consequences, up to and including termination,
23 that will be imposed upon violators of the policy;

24 H. A promise of maximum feasible confidentiality for persons who
25 believe that they have been subjected to sexual harassment, wage discrimination or
26 retaliation;

1 I. An assurance of non-retaliation for persons who believe they have
2 been subjected to sexual harassment, wage discrimination or retaliation, and for
3 witnesses.

4 14. These policies shall be distributed to each of Defendant's current
5 employees within ninety (90) days of the entry of this Settlement Agreement. These
6 policies shall be distributed to all new employees of Defendant when hired and reissued
7 to each employee once a year for the term of this Settlement Agreement. These policies
8 also shall be posted in a prominent place frequented by the employees.

9 15. Defendant shall promptly and appropriately investigate all complaints by its
10 employees of sexual harassment, wage discrimination and retaliation. The investigation
11 must include a finding of whether the alleged conduct occurred; a credibility assessment,
12 if necessary; interviews of all potential victims and witnesses identified; and concurrent
13 notes of the investigation. Defendant shall take immediate appropriate corrective action
14 to make victims of the unlawful conduct whole, to discipline those who engaged in the
15 unlawful conduct, and to eradicate the unlawful conduct.

16 16. Defendant shall not retain documents related to the investigation of
17 complaints of sexual harassment, wage discrimination or retaliation in any of the
18 complainant's personnel files. All disciplinary actions taken against employees for
19 violation of Defendant's policies regarding sexual harassment, wage discrimination or
20 retaliation, shall be retained in the wrongdoer's personnel file. In those cases in which no
21 conclusion could be reached on the allegations, the investigation documents shall be
22 retained in an investigation file.

23 17. Within ninety (90) days from the entry of this Settlement Agreement,
24 Defendant agrees to provide training to its employees, supervisors and managers of its
25 facilities in the state of Arizona on sexual harassment, wage discrimination and
26 retaliation, according to the following terms:

27 A. Defendant shall retain and pay a consultant/lecturer
28 who shall provide training to its employees located in Arizona or any

1 other employee with Human Resources responsibility for Defendant's
2 Arizona location(s) for a period of eighteen months from the date of this
3 Settlement Agreement, on the issues of sexual harassment, wage
4 discrimination and retaliation.

5 B. During the eighteen months, the consultant/lecturer
6 shall conduct one live training seminar that will be videotaped by a
7 qualified videographer. All of Defendant's Arizona employees and
8 supervisors, both managerial and non-managerial, shall attend the live
9 seminar or a videotaped showing of the live seminar within 120 days
10 from the date of this Settlement Agreement. Top management of the
11 Arizona office shall attend the live seminar. In addition, Defendant's
12 top national management officials, including its Owners, President, and
13 Human Resources officials with responsibility for the Arizona
14 location(s), shall attend the live seminar. New employees shall view the
15 videotape within thirty (30) days of commencing employment.
16 Defendant may have duplicative videotaped seminars to accommodate
17 staffing needs. Defendant shall be responsible for any additional costs
18 to provide such duplicative seminars.

19 C. Defendant shall obtain the EEOC's approval of the
20 consultants/lecturers selected by Defendant to provide the training
21 described above. At least thirty (30) days prior to the proposed training
22 seminar, Defendant shall submit the name(s), address(es), telephone
23 number(s) and resume(s) of the proposed consultant/lecturer(s), together
24 with the dates of the proposed training seminar and an outline of the
25 contents of the training, to the Regional Attorney of the Phoenix District
26 Office of the EEOC, at the address provided in paragraph ten above.
27 The Commission shall have fifteen (15) days from the date of receipt of
28 the information described above to accept or reject the proposed

1 consultant/lecturer(s) and/or the contents of the seminar. In the event
2 the Commission does not approve the designated consultant/lecturer(s)
3 and/or the contents of the training, the Commission shall designate the
4 consultant/lecturer at a cost not to exceed \$5,000 per seminar, which
5 shall be paid by Defendant.

6 D. The training seminars shall be no less than two hours,
7 plus fifteen to thirty minutes of questions and answers. All of
8 Defendant's employees shall register when they attend a training
9 seminar. The registry of attendance shall be retained by Defendant for
10 three years.

11 E. The seminars shall include: (1) the subject of what
12 constitutes sexual harassment and wage discrimination; (2) the subject
13 of what constitutes retaliation for engaging in a protected activity under
14 Title VII of the Civil Rights Act of 1964; and (3) to whom and by what
15 means employees may complain if they feel they have been
16 discriminated against based on sexual harassment, wage discrimination
17 and/or retaliation. The seminar shall also review and explain
18 Defendant's policies set out in paragraph thirteen of this Settlement
19 Agreement.

20 F. The Commission shall have the right to view a copy of
21 the videotaped live training seminar.

22 18. To the extent necessary, Defendant shall expunge from the personnel files
23 of Ms. Kradel and Ms. Chavez (a) all references to the charges of discrimination filed
24 against Defendant that formed the basis of this action; (b) all references to Ms. Kradel's
25 and Ms. Chavez's participation in this action.

26 19. Within ten (10) business days after the Entry of this Settlement Agreement,
27 Defendant shall provide Ms. Kradel and Ms. Chavez with neutral letters of reference
28 addressed "To Whom it May Concern." In these letters, Defendant shall provide,

1 pursuant to Defendant's standard policy, Mss. Kradel's and Chavez's dates of
2 employment with Defendant, last title held with Defendant, and last rate of pay. The
3 letter will also state that if a reference is needed to contact Jeff Freedman and it will
4 provide his contact information. Mss. Kradel and Chavez will direct any future employer
5 who needs a reference for Ms. Kradel or Ms. Chavez to Jeff Freedman, who will be
6 solely responsible for handling such request.

7 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

8 20. Defendant shall report in writing and in affidavit form to the Regional
9 Attorney of the Commission's Phoenix District Office, at the address provided in
10 paragraph ten above, beginning six months from the date of the entry of this Settlement
11 Agreement, and one year thereafter, the following information:

12 a) Copy of the revised policies required in paragraph thirteen of this
13 Settlement Agreement.

14 b) Any changes, modifications, revocations, or revisions to its policies
15 and procedures which concern or affect the subjects of unlawful discrimination based on
16 sexual harassment, wage discrimination and/or retaliation.

17 c) The name, address, position, social security number, and telephone
18 number of any individual who has brought allegations, whether formal or informal, of
19 sexual harassment, wage discrimination and/or retaliation for engaging in a protected
20 activity against Defendant's personnel including, but not limited to, management officials
21 and/or non-management employees. The nature of the complaint, investigatory efforts
22 made by Defendant, and corrective action taken, if any, also shall be specified.

23 d) The registries of persons attending the training seminars required in
24 paragraph 17(d) of this Settlement Agreement and a list of current personnel employed
25 by Defendant on the days of the seminar training sessions.

26 e) Confirmation that (1) the Notice required in paragraph eleven of this
27 Settlement Agreement was posted in English, and the locations where it was posted; (2)
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1 the policies required in paragraph thirteen were distributed to each current and new
2 employee of Defendant, and posted.

3 21. The Commission, upon reasonable notice and agreement, shall have the
4 right to enter and inspect Defendant's Arizona premises and work sites to ensure
5 compliance with this Settlement Agreement.

6 **PROCEDURES AND REMEDIES FOR NON-COMPLIANCE**

7 22. In the event that the Commission believes that Defendant has failed to
8 comply with any provision(s) of this Settlement Agreement, it shall notify Defendant in
9 writing of the non-compliance by fax and by overnight mail to the counsel and the
10 corporate officer who sign this Settlement Agreement on Defendant's behalf, or to his or
11 her successor, and afford Defendant forty-five days after service of the notice to remedy
12 the non-compliance.

13 23. If Defendant has not remedied the alleged non-compliance in forty-five
14 (45) days after service of notice, the EEOC may petition this Court to enforce the terms
15 of the Settlement Agreement at any time during its duration.

16 24. In the event the Court finds that Defendant has violated this Settlement
17 Agreement, as evidenced by a final judgment against Defendant, the Court may order
18 reasonable relief to remedy the non-compliance, including attorneys' fees, daily fines,
19 appropriate injunctive relief, and extension of this Settlement Agreement for such period
20 as may be necessary to remedy its non-compliance.

21 **COSTS AND DURATION**

22 25. Each Party shall bear its costs and attorney's fees incurred as a result of this
23 action through the filing of this Settlement Agreement.

24 26. The duration of this Settlement Agreement shall be eighteen months from
25 its entry. This Court shall retain jurisdiction over this action for the duration of the
26 Settlement Agreement, during which the Commission may petition this Court for
27 compliance with this Settlement Agreement. Should the Court determine that Defendant
28 has not complied with this Settlement Agreement, the Court may order appropriate relief,

1 including extension of this Settlement Agreement for such period as may be necessary to
2 remedy its non-compliance, an award of attorney's fees and costs, and fines for contempt
3 of court.

4 27. In the event Defendant is in non-compliance with any provision of this
5 Settlement Agreement, and the Commission petitions the Court to order Defendant to
6 comply, Defendant shall pay all attorney's fees and costs incurred by the Commission to
7 enforce the Settlement Agreement, if ordered.

8 28. Absent extension, this Settlement Agreement shall expire by its own terms at the
9 end of eighteen months from the date of entry without further action by the Parties.
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