Entered on the Jol 30/ 30/ M. C By 1	UKIGINAI						
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8	UNITED STATES DISTRICT COURT						
9	DISTRICT OF OREGON						
10	EQUAL EMPLOYMENT OPPORTUNITY )						
11	COMMISSION, ) CIVIL NO. CV 97-965-MA						
12	Plaintiff, ) PARTIAL SETTLEMENT ) AND CONSENT DECREE						
13	V.						
14	SWIFT TRANSPORTATION CO., INC.,						
15	Defendant. )						
16	I INTRODUCTION						
17	I. INTRODUCTION  This potion entoinested with a change of discrimination filed by Wether A. Wells with						
18	1. This action originated with a charge of discrimination filed by Kathy A. Kelly with						
19 20	the Equal Employment Opportunity Commission, alleging violations of Title VII of the Civil Rights  Act of 1964.						
20	2. The EEOC investigated the charge and issued an administrative determination on						
22	January 21, 1997 finding reasonable cause to believe that Defendant, Swift Transportation Co.						
23	("Swift") had discriminated against women in violation of Title VII.						
24	3. Plaintiff, Equal Employment Opportunity Commission ("EEOC" or "the						
25	Commission"), subsequently filed this lawsuit in the United States District Court for the District of						
26	Oregon on June 24, 1997. Plaintiff alleged, <i>inter alia</i> , that Swift violated Title VII of the Civil						
27	Rights Act of 1964, as amended, 42 U.S.C., Section 2000e, et seq., (hereinafter "Title VII") by						

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Seattle District Office Federal Office Building

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subjecting Kathy A. Kelly and similarly situated female applicants and employees to different terms and conditions of employment. Specifically, EEOC alleged that Swift's policy of not allowing female employees to receive over-the-road truck driving training from male trainers delayed training and employment opportunities for women because of the shortage of available female trainers and thereby discriminated against females because of their sex.

4. Debi K. Fox was named in the EEOC's lawsuit as an individual who filed a charge with the EEOC alleging a violation of Title VII. Because Ms. Fox privately resolved her claims against Swift, she is not a claimant entitled to relief in this litigation or partial settlement between EEOC and Swift.

### **II. JURISDICTION AND VENUE**

5. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1331, 1337, 1343 and 1345. This action is authorized pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a. The employment practices alleged to be unlawful in the complaint filed herein occurred within the jurisdiction of the United States District Court for the District of Oregon.

# III. GENERAL PROVISIONS

- 6. The Court granted a bifurcation of the liability and damages phases in this case on February 13, 1998. This Consent Decree fully resolves all liability issues alleged in <u>EEOC v. Swift Transportation co., Inc.</u>, Civil No. CV 97-965-MA, pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Subsection 2000e, <u>et seq.</u>, except for the reserved issues defined in Section VI below.
- 7. This Consent Decree covers all facilities operated by Swift nationwide. Swift's corporate office and base of operations is located at 2200 South 75th Avenue, Phoenix, Arizona.
- 8. Nothing in this Consent Decree shall be construed to limit or reduce Swift's obligation to fully comply with Title VII of the 1964 Civil Rights Act, as amended, the Equal Pay Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, or the

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26 27 regulations promulgated pursuant thereto.

- 9. Swift agrees that there will be no retaliation of any kind against any person because of such person having provided information or assistance or having filed a charge, having participated in any manner in any proceeding or investigation related to this litigation or under this Consent Decree, or having received relief pursuant to this Agreement.
- 10. Except as contained in this subparagraph, this Consent Decree in no way affects EEOC's right to process, in accordance with standard Commission procedures, charges filed by individuals against Swift alleging violations of Title VII. Charges include those pending as of the effective date of the agreement and those filed in the future. Processing includes the administrative investigation and conciliation and commencement of civil actions on the basis of such charges. This Consent Decree will constitute the sole basis on which the Commission will seek administrative resolution of, file suit, or intervene in any claims or class of claims for relief on any Consent Decree issues alleged in such pending or future charges during the term of this Consent Decree. Consent Decree covered issues are defined in Section IV. The reserved issue, relating to monetary damages sought by the Commission in this litigation, as defined in Section VI, is specifically excluded as a Consent Decree issue.
- 11. It is expressly agreed that if EEOC concludes that Swift has failed to comply with this Consent Decree, the Commission may bring an action in the U.S. District Court for the District of Oregon to enforce this Consent Decree after compliance with the terms in Section XII, Dispute Resolution Procedures.
- 12. If one or more provisions of this Consent Decree are rendered unlawful or unenforceable by an Act of Congress or decision of the United States Supreme Court, the parties shall attempt to agree upon what amendments to the Consent Decree, if any, are appropriate to effectuate the purposes of the Consent Decree. In any event, the remaining provisions will remain in full force and effect.
- 13. This Consent Decree constitutes the complete understanding between Swift and the Commission with respect to matters herein. No waiver, modification or amendment to any

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provisions of this Consent Decree will be effective unless it is agreed to in accordance with provisions of Section XIII, Consent Decree Amendment Procedures.

14. This Consent Decree is the product of negotiation. Concepts developed and definitions used are solely for the purpose of implementing and interpreting this Consent Decree.

# IV. DEFINITION OF TERMS

For the purposes of this Consent Decree the following definitions shall apply:

- 15. "The Effective Date of This Consent Decree" is the date the Consent Decree is approved by the U.S. District Court for the District of Oregon.
  - 16. "Termination of Trial" is the date that judgment is entered on the Reserved Issue.
- 17. The "Original Training Policy" is Swift's policy, in effect for the period May 10, 1993 through September 30, 1997, of assigning new drivers to training based upon their sex. (see Attachment A).
- 18. The "Modified Training Policy" is Swift's modification of its trainer assignment policy beginning October 1, 1997, in which Swift adopted gender neutral training, but permitted trainers and trainees to elect same sex training upon a showing of good cause. (see Attachment B).
- 19. The term "Consent Decree Covered Issues" includes any and all liability claims that the Original Training Policy or Modified Training Policy violated Title VII of the 1964 Civil Rights Act, as amended. Claims related to the Amended Modified Training Policy are addressed in Section VII, and the Reserved Issue is defined in Paragraph 26 and further described in Section VI.
  - 20. Unless otherwise indicated, the word "days" refers to calendar days.
  - 21. An "applicant" is any person seeking employment at Swift as a driver.
- 22. A "trainee" is a Swift employee prepared to undergo the over-the-road training required of all new truck drivers.
- 23. A 'trainer" is a driver who has been designated by Swift to train and monitor the progress of trainees.
- 24. "Driver" includes the following jobs: trainee, trainer, first driver, second driver and team driver, unless otherwise indicated in the text.

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- 25. A "team driver" is a first-seat driver with first-seat driver responsibilities who performs those responsibilities with another first-seat driver with like responsibilities as designated by the Company.
- 26. The "Reserved Issue" is the issue of damages recoverable by Kathy A. Kelly and similarly situated females, applicants and employees as a result of Swift's adoption of the Original Training Policy. Further provisions related to the Reserved Issue are delineated in Section VI.
- 27. "Formal or Informal Complaints" includes any complaint, whether written or oral, made to a managerial employee of Swift.

## V. PURPOSE OF THE AGREEMENT

- 28. The parties have entered into this Consent Decree in order to achieve the following purposes:
- a. To assure the implementation of a policy which prohibits the Company from preferring same-sex assignments of drivers during training.
- b. To assure that females are selected for and provided driver employment and training opportunities on an equal basis as males.
- c. To assure that Swift implements a policy and enforcement program to effectively prevent sexual harassment and to address and correct situations in which sexual harassment is alleged.
  - d. To avoid the time, expense and uncertainty of further litigation.

#### VI. RESERVED ISSUE

- 29. The Commission expressly reserves the right to litigate before the Court the issue of damages recoverable by Kathy A. Kelly and similarly situated female applicants and employees as a result of Swift's adoption of the Original Training Policy.
- 30. Swift agrees that for the purpose of this litigation only and only as to the issue of monetary relief for class members, it will not continue to assert the legality of its Original Training Policy under Title VII. By so agreeing Swift does not waive any argument that plaintiff and class members lack evidence sufficient to warrant an award of punitive damages.

31. If trial becomes necessary on the issue of punitive damages, the parties will be allowed to present testimony as to the reasons why the same sex policy was adopted and alternatives to that policy.

- 32. Except as limited by paragraph 30 above, Swift reserves the right to raise any and all defenses to individual and class damage claims, including but not limited to statute of limitations, laches, administrative exhaustion, standing and mitigation of damages. In reserving these defenses, Swift agrees that EEOC has met the jurisdictional pre-requisites to maintain this action and to seek individual and class-wide damages.
- 33. The EEOC agrees that the Modified Training Policy, as defined in Paragraph 18, was formulated in good faith by Swift, was not adopted as an intentional act of sex discrimination, and that it will not challenge the lawfulness of the Modified Training Policy. The parties agree that Swift can continue using the Modified Training Policy, for a period of not more than ninety (90) days from the effective date of this Consent Decree.

## VII. GENDER NEUTRAL TRAINING ASSIGNMENTS

34. Within ninety (90) days of the Effective Date of this Consent Decree, the Company will implement a new Driver Assignment policy ("Amended Policy") which states that (1) Swift will make gender neutral training assignments; (2) Swift will not solicit requests from applicants or employees not to train, or be trained with a person of the opposite sex; (3) trainers and trainees who object to pairing with a member of the opposite sex must provide a legitimate reason to Swift's Vice President of Safety of his/her objection(s) to mixed-sex pairing; and, (4) both mixed-sex and single-sex first driver teams may be formed by employees. A copy of this policy is set forth as Attachment C. For the purposes of this policy, a "legitimate reason" to object to training with a member of the opposite sex must relate to religious beliefs or concerns for personal privacy (which the company interprets to include family concerns). Objections to mixed-sex pairings for training shall be submitted on an Objection Form, as set forth in Attachment D. The ultimate decision as to the legitimacy of any objection to training with a member of the opposite sex will be made by Swift's Chief Financial Officer, currently William F. Riley III. A good faith effort will be made to

 determine that any "legitimate reason" offered to object to training with a member of the opposite sex is not a subterfuge for sex discrimination.

- 35. Within ninety (90) days of the Effective Date of this Consent Decree, Swift will implement a revised non-discrimination policy based on sex, which includes strict prohibitions against sex discrimination including sexual harassment. The revised non-discrimination policy and description of the internal process for complaints will be developed with the assistance of outside resources. This policy may be contained within a general policy prohibiting protected class harassment.
- 36. Within ninety (90) days of the Effective Date of this Consent Decree, all current trainers will be required to sign the Trainer/Trainee Acknowledgment Form (Attachment E) indicating that he/she has received and understands Swift's Driver Assignment and Non-Discrimination policies described above.
- 37. Trainees hired after the amended policy takes effect will be required to sign the Trainer/Trainee Acknowledgment Form during the new driver orientation process.
- 38. If it is apparent that any female trainee will be required to wait for more than four (4) days for a trainer assignment because male trainers are unavailable to train females due to the male trainers' objections to training the opposite sex, Swift shall offer alternative employment to female trainees until such time as training becomes available. Such alternative employment shall be at the same rate of pay that would be paid to trainees during the training period.
- 39. Swift will be permitted to use the Amended Training Policy for a period of not less than one year, during which time it will collect and share with the EEOC data concerning the impact of the Amended Policy on the training opportunities of female drivers, as set forth in Section X. During this one year assessment period, in addition to considering the utility of the Amended Policy, Swift will gather information and consider the use of other training options, including but not limited to the assignment of two female trainees to single trainer, and alternate sleeping arrangements such as the use of motels while trainers/trainees are away from home terminals for an extended period of time.

40. The parties agree that Swift can continue using the Amended Training Policy for at least a period of one (1) year, pursuant to the terms of this Consent Decree. Following this one year period, if the EEOC finds cause to challenge the use of the Amended Training Policy, it agrees that it will be limited to challenging the policy under a disparate impact theory of discrimination, and only will pursue such a challenge following use of the Dispute Resolution Procedures outlined below in Section XII. If the parties cannot resolve the issue pursuant to the Dispute Resolution Procedures, the EEOC may pursue a claim of disparate impact discrimination, if necessary, under the Court's continuing jurisdiction.

Provided, if any individual instances of disparate treatment related to the Amended Policy are discovered, such individual claims can be investigated and pursued by the EEOC. If the EEOC finds that any such individual instance of disparate treatment is substantiated by the evidence, the EEOC can seek relief, including equitable, compensatory or punitive damages, on behalf of the injured party. The EEOC must utilize the Dispute Resolution Procedures outlined below prior to instituting any court action on any such claim.

41. If the EEOC does not challenge the use of the Amended Training Policy following this one year period, Swift and EEOC will make joint recommended findings of fact to the Court regarding the absence of any statistically significant impact in Swift's use of the Amended Training Policy. By entering into this Consent Decree, however, the EEOC does not endorse the Amended Policy as the only or best alternative available to address mixed-gender training concerns for truck drivers.

#### VIII. TRAINING AND AWARENESS PROGRAM

- 42. To further the purposes and requirements of this Consent Decree, Swift will provide training to all management, supervisory employees, and to employees who are or become truck drivers including: (1) trainers; (2) trainees; (3) responsible for recruiting and selecting trainers or trainees; (4) responsible for driver assignments; and (5) responsible for supervising trainees, trainers or other drivers.
  - 43. The objectives of this training will be to convey to employees Swift's commitment to

the personnel policies established by this Consent Decree and to provide information and guidance on how to carry out those policies, and for individual employees, how to conduct themselves in various situations under those policies. Each training session will begin with a videotaped presentation by a high ranking official within Swift emphasizing Swift's commitment to implement the provisions of the Consent Decree and to conduct hiring, assignment and training practices in a non-discriminatory manner.

- 44. Swift will utilize outside resources to assist with the development of this training. As soon as possible after the Effective Date of the Consent Decree, the Commission, Swift, and any other individuals involved in developing the training, will discuss the objectives of the training and the concepts and approaches to be used. Swift will provide to the Commission, within ninety (90) days of the Effective Date of this Consent Decree, a detailed outline of the training to be given. Within thirty (30) days of receipt of the outline, the Commission may provide any comments to Swift with respect to the substance of the training as outlined, which Swift will consider. Swift will provide to the Commission a copy of the materials to be used in the training. Swift will likewise provide the Commission with any revisions to such materials prior to implementing the revisions. Swift will provide information concerning the scheduled training locations, dates, and times to the Commission.
- 45. Training will be included in the orientation program for trainees and in the certification program for new trainers. All persons certified as trainers as of the Effective Date of this Consent Decree will be trained within six (6) months of this date. Training for trainers may be accomplished by video presentations and group discussions with supervisory and other management personnel.
- 46. Training for the other Swift employees identified in Paragraph 42 above will be conducted within nine (9) months of the Effect Date of the Consent Decree. Further, Swift will periodically provide EEO materials and information concerning its sexual harassment policy in its employee newsletters or through other written memoranda and training communicated to all employees.

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### IX. ADMINISTRATION OF THE AGREEMENT

- 47. The Company will be fully responsible for implementing this Consent Decree. Swift's Chief Financial Officer (currently William F. Riley III), shall have ultimate responsibility for implementation of the objectives under this Consent Decree. Swift will appoint a Consent Decree Administrator who will report directly to the Vice President of Safety (currently Dennis Ritchie), who in return will report to the Chief Financial Officer. The Company has designated Jane Hoyt as the initial Consent Decree Administrator.
- 49. To assist the Consent Decree Administrator in assuring compliance with the Consent Decree, Swift will make available outside resources on equal employment law and/or practice.
- 49. The Company will provide the Consent Decree Administrator with all support necessary to carry out his/her duties under the Consent Decree, including:
  - Preparation of all reports required by the Consent Decree Administrator, a.
  - b. Administrative and professional support as needed; and,
  - Access to personnel officials, managers, and other employees. c.
  - 50. The Consent Decree Administrator's major areas of responsibility will include:
- Preparation and submission to EEOC of the reports on compliance with this a. Consent Decree as set forth in Section X, Reporting and Record Keeping;
- b. Providing information to employees concerning Swift's policy on training and team driving assignments and Swift's obligations under the Consent Decree;
  - Responding to employee inquiries concerning this Consent Decree; c.
- d. Participating in training sponsored by Swift, including that provided for in this Consent Decree;
- e, Investigating complaints regarding possible violations of the Trainer/Trainee Assignment Policy and reporting the results of the investigations to the Vice President of Safety and Chief Financial Officer;
- f. Recommending discipline to the Vice President of Safety and the Chief Financial Officer of supervisors, managers, trainers, and any other employees for Consent Decree

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violations and violations of the non-discrimination policy described in Section VII;

- g. Participating in discussions held among the parties to implement the Consent Decree, to resolve disputes under the Consent Decree or to otherwise amend the Consent Decree; and,
- h. Periodically reviewing the operation of Swift's over-the-road training programs, and identifying in writing to the Vice President of Safety and Chief Financial Officer any modifications or enhancements which serve to advance the purposes of this Consent Decree.
- 51. Swift, through the assistance of the Consent Decree Administrator, will appoint an advisory council of female drivers whose input will be sought on the implementation of the training policy and Swift's efforts to address sexual harassment issues company-wide. Swift will report to the Commission any recommendation made by the Advisory Council and/or Consent Decree Administrator regarding implementation of the Amended Modified Training Policy and Swift's efforts to address sexual harassment issues pursuant to Section X.

# X. REPORTING, RECORD KEEPING AND COMPLIANCE REVIEW

- 52. The reports to be submitted by Swift on a periodic basis as provided in this Section will be forwarded so as to arrive at the Commission within thirty (30) days after the close of the reporting period.
- 53. Within ninety (90) days after the Effective Date of this Consent Decree, Swift will provide the Commission with the following items:
- a. A listing of all active trainers, as of the Effective Date of this Consent Decree, indicating for each, the name, sex, date he/she became a trainer, his/her terminal designation, and date he/she signed the Acknowledgment Form. (Report 1)
- b. A report confirming the date of the distribution of copies of the Amended Training Policy and Acknowledgment Form to current employees, as required by Paragraph 36. (Report 2)
- 54. On a quarterly basis beginning within ninety (90) days of the Effective Date of this Consent Decree, for a period of one year, and for every six-month period thereafter for the duration

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of the Consent Decree as set forth in Section XIV, Swift will prepare and submit the reports described below:

- A report on hiring of new drivers/trainees: This report will provide by terminal, the following information on each driver hired during the period: name, driver code, sex, date of hire, name and sex of trainer(s), and date of payroll change to mileage basis. (Report 3)
- b. Report on change of pay status to mileage basis: This report will list the driver code and date of change to pay status to mileage basis for all individuals who were hired by the time of the previous reporting period but whose status did not change to mileage basis until the current reporting period. (Report 4)
- A report listing all trainees receiving training from their spouse during the period. (Report 5)
- d. Report on internal sexual harassment complaints involving trainers and trainees: This report will provide for each such formal or informal complaint filed and/or resolved during the period, the name and sex of the person filing the complaint, the date the complaint was filed, a description of the complaint, and resolution or status of each complaint. Copies of any complaint filed during the reporting period and copies of documents relating to any complaints resolved during the period will be provided along with the report. (Report 6)
- Report on Trainers/Trainees Objecting to Sex-Neutral Pairing: This report will include the terminal designation, the name and sex of trainers and trainees requesting same sex training, the reason(s) for the request, all alternative training options considered, and whether such request was granted. (Report 7)
- f. Report on Persons Certified as Trainers: This report will contain a listing of all active trainers who become certified during the period, providing for each name, sex, date certified to become a trainer, and date acknowledgment form signed. (Report 8)
- Report of Advisory Council and Consent Decree Administrator's g. Recommendations: This report will include all recommendations made by the Advisory Council and/or Consent Decree Administrator regarding implementation of the Amended Modified Training

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Policy and Swift's efforts to address sexual harassment issues. (Report 9)

- 55. All records required by this Consent Decree will be retained by the Company for the duration of this Consent Decree. The Company will also maintain records necessary to demonstrate compliance with the provisions of this Consent Decree and to verify reports submitted, which records shall include, but are not limited to:
- a. All applications and any documents relating to persons applying for driver and trainer positions;
  - b. Documents relating to trainer certification;
- c. Records concerning sexual harassment incidents or complaints, including documentary evidence and summaries of interviews conducted during the investigations, and the findings, resolutions and/or conclusions reached;
- d. Documents relating to any disciplinary action taken by Swift concerning provisions of this Consent Decree against trainers, supervisors and/or management personnel;
- e. Documentation on individual and group training materials used during the sessions;
- f. Documents relating to objections by trainers and trainees for participating in mixed-sex driving assignments; and,
  - g. Completed Acknowledgment Forms.
- 56. For the duration of this Consent Decree, the Commission shall have the right to conduct two (2) on-site reviews within any twelve (12) month period, including conducting interviews, attending training held pursuant to the Consent Decree, and examining documents and data maintained by Swift pursuant to this Consent Decree and Commission regulations for the purpose of confirming compliance with this Consent Decree Order. The Commission agrees that it will provide reasonable notice to Swift's attorney prior to conducting any review.
- 57. The Commission agrees it will not conduct or attempt to conduct any interviews or make any contact with Swift employees at terminal sites without first notifying Swift's attorney. Further, Swift recognizes that the Commission has the right to speak with employees that initiate

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contact with it regardless of the time or place of the contact.

- 58. Documents and data contained therein provided to the Commission under the terms of this Consent Decree shall not be admissible as evidence in any trial of the Reserved Issue in Section VI, though all such information would be admissible in any proceeding instituted pursuant to Paragraph 40. All discovery relating to the Reserved Issue shall be conducted as provided under the Federal Rules of Civil Procedure, unless otherwise agreed to by the parties or ordered by the Court.
- 59. After the expiration of this Consent Decree, records will be maintained by Swift as required by law and Commission regulations.

# XI. SETTLEMENT NOTICE AND PROCEDURES

- 60. Within forty-five (45) days after the Effective Date of this Consent Decree, Swift will place a copy of the Amended Training Policy (Attachment C) in all areas where the Company posts information on Company Policies, Employee Awards, DOT Regulations, and other pertinent Company information, and will maintain this posting for the life of the Consent Decree.
- 61. Within forty-five (45) days after the Effective Date of the Consent Decree, the Company will provide to all current employees in the job categories covered by Paragraph 42, with their normal pay statement, a copy of the Amended Training Policy (Attachment C).
- 62. Beginning with forty-five (45) days after the Effective Date of the Consent Decree, and continuing for the duration of this Consent Decree, the Company will provide a copy of the Amended Training Policy (Attachment C), Objection Form (Attachment D), and Acknowledgment Form (Attachment E) to each person hired during the first fifteen (15) days of his/her employment. Prospective employees/trainees shall receive a copy of these Attachments at their orientation.
- 63. The Company, in any advertisements that it may run, shall include information that it is an equal opportunity employer.

#### XII. DISPUTE RESOLUTION PROCEDURES

The purpose of this Section is to provide a formal procedure for resolving disputes as to the compliance with the terms of this Agreement.

64. Either party shall have the right to initiate an action pursuant to the Court's

#### 1 XV. RETENTION OF JURISDICTION 2 68. The United States District Court for the District of Oregon shall retain jurisdiction 3 over this matter for the duration of the Consent Decree. 4 DATED this 27 day of October, 1998. 5 6 7 C. GREGORY STEWART General Counsel 8 **GWENDOLYN YOUNG REAMS** 9 Associate General Counsel **EOUAL EMPLOYMENT OPPORTUNITY** 10 COMMISSION Office of the General Counsel 11 1801 "L" Street NW 12 Washington, DC 20507 13 A. LUIS LUCERO, JR. EDWARD S. McGLONE III Regional Attorney 14 WALLACE, KLOR & MANN, P.C. 15 CLAIRE CORDON Supervisory Trial Attorney 16 KATHRYN B. OLSON 17 Trial Attorney 18 BY: A JULY PUCERO EQUAL EMPLOYMENT OF PORTUNITY 19 WALLACE, KLOR & MANN, P.C. **COMMISSION** Seattle District Office 1500 KOIN Center 20 909 First Avenue, Suite 400 222 Southwest Columbia Seattle, Washington 98104 21 Portland, Oregon 97201 Tel: (206) 220-6915 Oregon State Bar ID Number: 82331 22 Tel: (503) 224-8949 23 Attorneys for Plaintiff Attorneys for Defendant 24 25 26

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#### CORPORATE OFFICE

560: W. MOHAVE • PHOENIX. ARIJ. 85043 (602) 269-9700 / FAX (602) 272-9917

TO: Recruiters DATE: May 10, 1993

FROM: Lana Hinde cc: Bill Rilev

Safety Compliance Manager Dennis Ritchie

SUBJECT: Trainee/Trainer

The following, although not company policy, must be followed as company procedure: In order to comply with the sexual harassment act guidelines, we can no longer allow female trainees to be trained by male trainers; or male trainees to be trained by female trainers. The only exception to this procedure is a husband and wife situation.

Thank you for your cooperation!



	N	T	 E	R	MEMO
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To:

Terminal Managers, Recruiters & Driver Managers

From:

Bill Riley (/

Subject:

CO-ED Training

Date:

October 9, 1997

CC:

Safety Compliance

Effective October 1, 1997 Swift is modifying its Trainer Assignment Policy to match trainers with trainees without consideration of gender. At the same time, both trainers and trainees will be permitted to request same sex training assignments if they object to co-ed training for good cause. Good cause to object to co-ed training must be based on religious, ethical, family or personal privacy considerations. Good cause to object cannot be based upon objections to the employment of women in general or as truck drivers.

Swift is firmlly committed to equal employment opportunity and will continue to aggressively seek out and hire, develop and promote members of protected groups, including woman. All employees and prospective employees are reminded of Swift's commitment to preventing sexual harassment. Swift strongly disapproves of and does not tolerate sexual harassment of any kind. All employees must avoid offensive and inapproprirate sexual behavior at work and are responsible for assuring that the workplace is free from sexual harassment at all times. Any participant in Swift's driver training program who believes that they are being subjected to sexual harassment are directed to bring such conduct to the attention of Swift's EEOC officer at 1-800-800-813-5819. Complaints of harassing conduct can be conveyed to that number 24 hours a day.

To assist in the prevention of sexual harassment in the training program, additional modifications to facilities, equipment, policies and procuedures will be instituted in the next 60 days. In addition, all individuals participating in the training program are required to read, sign and return to the Human Resources Department the attached Policy & Procedure statement on sexual harassment. All current participants in the training program are required to do so prion to the effective date of this change.

Any questions about this policy are to be directed to Bruce Taylor at 1-800-800-2200.

BR:act

#### TRAINER/TRAINEE ASSIGNMENT POLICY

It is the policy of Swift Transportation to pair trainers and trainees regardless of sex for over-the-road training. During the over-the-road training program, a trainer and trainee driver are on the road together for approximately a four- to six-week period, sharing a tractor cab during sleeping breaks.

In the event that a trainer or a trainee objects to pairing with a member of the opposite sex, each will be required to provide his/her reason(s) to Bill Riley, Chief Financial Officer, for consideration. If a trainer fails to provide a timely notification to the Company of his/her objections to pairing with a member of the opposite sex, and subsequently objects to an assignment on these bases, disciplinary actions against the trainer may result.

Swift Transportation Co., Inc., is an equal opportunity employer and maintains a strict policy against sex discrimination. Accordingly, the company must be satisfied in each case that objections to being paired with a member of the opposite sex during over-the-road training are for legitimate reasons and relate only to concerns for religious beliefs or personal privacy (which the company interprets to include family concerns). If the Company approves of a trainer's or trainee's reason(s) not to be paired with a member of the opposite sex, he or she may have to wait until an individual of the same sex is available before receiving the training assignment.

The Company emphasizes that it will not tolerate sexual harassment of any kind. Disciplinary action will be taken promptly against any employee, supervisor, or company official who violates this policy. All trainers and trainees will receive a copy of the Company's policy against harassment and will be expected to abide by it.

After training, to the degree that two-person, first-seat driver teams are utilized, such pairings may be persons of single sex, related persons of the opposite sex, or unrelated persons of the opposite sex.

### TRAINER/TRAINEE ASSIGNMENT POLICY

# **Objection Form**

I acknowledge that I have received and read a copy of the Company's policy regarding trainer/trainee assignments, and that I understand its contents.

I understand that training assignments are made absent consideration of the sex of trainers or drivers. I understand that during the training program a trainer and trainee are on the road together for a period of time, which is normally four to six weeks. I also understand that a trainer and trainee share the quarters of the tractor cab for sleeping quarters.

I further acknowledge that I have received a copy of the Company's Non-Discrimination Policy, which includes a policy against sexual harassment. I have read and understand that policy and agree to abide by it.

Through no suggestion of the Company, I am requesting you to consider the following reason(s) why I object to being paired with a trainer/trainee of the opposite sex. I understand that my reason(s) will be considered by the Company for approval and that only legitimate reason(s) will be approved. I further understand that if the Company approves of my reason(s) not to be paired with a member of the opposite sex, I may have to wait until an individual of the same sex is available before receiving the training assignment and that I will not be paid for the time I am waiting since work would be otherwise available to me.

Reason(s) for objection (Print or legibly write out)							
Signature	Terminal						
Name (Printed)	Date						
Social Security Number	Sex Marital Status						

#### TRAINER/TRAINEE ACKNOWLEDGMENT FORM

I acknowledge that I have received and read a copy of the Company's policy regarding driver assignments, and that I understand its contents.

I understand that training assignments are made absent consideration of the sex of trainers or drivers. I understand that during the training program a trainer and trainee are on the road together for a period of time, which is normally four to six weeks. I also understand that a trainer and trainee share the quarters of the tractor cab for sleeping quarters.

I further acknowledge that I have received a copy of the Company's Non-Discrimination Policy, which includes a policy against sexual harassment. I have read and understand that policy and agree to abide by it.

Terminal	 Date
Signature	Social Security Number
Name (Typed or Printed)	Alpha Code (if known)
Sex	Marital Status