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ATTORNEYS FOR PLAINTIFF EEOC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Plaintiff,

v.

VIDEO ONLY, INC.

Defendant.

CIVIL ACTION NO. CV 06-1362-KI

‡ CONSENT DECREE

EEOC v. VIDEO ONLY, INC.
[PROPOSED] CONSENT DECREE
Page 1

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I. INTRODUCTION

1. This action originated with discrimination Charge Nos 380-2006-00466 and 380-2006-00465, filed by Jayson Lewis and Michael Gonzales with the EEOC on January 3 and 4, 2006. Lewis and Gonzales alleged that Video Only, Inc. ("Video Only") discriminated on the basis of race, national origin and religion by subjecting them to harassment, in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e *et seq.* In addition, Lewis and Gonzales alleged that Video Only retaliated against them when they complained about harassment, in violation of Section 704 of Title VII, 42 USC § 2000e-3. Video Only denied the allegations of discrimination, harassment and retaliation.

2. The EEOC issued a letter of determination on July 18, 2006 with a finding of reasonable cause to believe that Video Only violated Title VII by subjecting Lewis and Gonzales to a hostile work environment because of their race, national origin, religion, and by retaliating against Lewis and Gonzales for complaining about the harassment.

3. The EEOC filed this lawsuit on September 26, 2006 in the United States District Court for the District of Oregon, on behalf of Jayson Lewis and Michael Gonzales based on race, national origin, religion and retaliation. On November 6, 2006, Jayson Lewis and Michael Gonzales' unopposed motion to intervene was granted by the court.

4. On June 11, 2008, the court granted Plaintiffs' motion for summary judgment finding that Defendants retaliated against Jayson Lewis and Michael Gonzales after they complained about harassment and that Video Only had violated the Fair Credit Reporting Act.

5. The parties want to conclude fully and finally Jayson Lewis and Michaels Gonzales' claims arising out of the EEOC's complaint, its Letters of Determination, and the charges of discrimination filed with the EEOC. The EEOC and Video Only enter into this Consent Decree to further the objectives of equal employment opportunity as set forth in Title VII.

II. JURISDICTION AND VENUE

6. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a, and Section 704 of Title VII, 42 USC § 2000e-3. The employment practices alleged to be unlawful in the EEOC's complaint filed herein occurred within the jurisdiction of the United States District Court for the District of Oregon.

III. SETTLEMENT SCOPE

7. This Consent Decree is the final and complete resolution of all Title VII allegations of unlawful employment practices contained in the EEOC's complaint, including all

claims by the parties for attorney fees and costs. The Consent Decree resolves all issues and claims arising out of the EEOC's complaint, and is binding and final as to all such issues and claims.

IV. MONETARY RELIEF

8. Video Only agrees to pay a total of \$630,000 to resolve the lawsuit EEOC filed based on charges filed by Jayson Lewis and Michael Gonzales and Civil Case No. 08-0122 based on two charges filed by Travis Herron and Dave Guralnick. Payment will be made within ten (10) days of the date of entry of this Consent Decree. Payment shall be effected by sending, via certified mail, a settlement check to addresses to be provided, with copies to the EEOC.

VI. INJUNCTIVE AND OTHER RELIEF

A. General Provisions

9. Video Only, its officers, agents, managers, assistant managers and other supervisors shall comply with Title VII. To further this commitment Video Only shall monitor the affirmative obligations of this Consent Decree.

10. Video Only, its officers, agents, managers, assistant managers and other supervisors are further enjoined from retaliating against any applicant or employee for opposing a practice deemed unlawful by Title VII or for making a charge, testifying, assisting, or participating in any investigation, proceeding, or hearing associated with this action. In

recognition of obligations under Title VII, Video Only shall institute the policies and practices set forth below at its facilities.

B. Anti-Discrimination Policies and Procedures

11. Video Only shall carry out anti-discrimination policies, procedures and training for employees, supervisors and management personnel and shall provide equal employment opportunities for all employees consistent with its obligations under the law. Video Only shall ensure that the practices of its managers and supervisors are consistent with the obligations of this paragraph, and compliance with Video Only policies will be considered in the performance evaluations of management personnel.

12. Within sixty (60) days of the date of the effective date of this Consent Decree, Video Only shall provide to the EEOC: (a) an EEO policy which addresses Video Only's obligation to provide a work environment free of harassment, discrimination, and retaliation for its employees, states its commitment not to retaliate against any employee for engaging in protected EEO activity, and provides contact information for the individual within the company responsible for handling harassment, discrimination and retaliation complaints; and (b) confirmation that it distributed its EEO policy to all present employees and will distribute it to all future employees, both management and non-management, for the duration of this Decree.

C. Training

13. Within ninety (90) days of the execution of this Consent Decree, Video Only shall present to all Southcenter and all Oregon employees, managers, assistant managers, and supervisors, no less than four (4) hours of face-to-face training by a qualified trainer on harassment, employment discrimination, and retaliation for engaging in protected EEO activity. The EEOC shall have the opportunity to view the training materials prior to the training date.

Annually thereafter, Video Only shall require: (1) all Southcenter and all Oregon employees, managers, assistant managers and supervisors, and corporate headquarters personnel, to complete four (4) hours of face-to-face training by a qualified trainer on harassment, employment discrimination and retaliation.

D. Reference Requests

14. Video Only is enjoined from disclosing any information about, or making reference to, any charge of discrimination that is the subject of this lawsuit in responding to employment reference requests for information about the recipients of settlement funds named by the EEOC. Rather, it shall provide only the employment dates and position title in response to reference requests for those named individuals.

E. Policies Designed to Promote Supervisor Accountability

15. Video Only shall advise all managers and supervisors of their duty to ensure compliance with its EEO policies, and to report any incident or complaint of harassment,

discrimination, or retaliation, of which they become aware. Video Only shall also advise all managers and supervisors that if a manager or supervisor violates Video Only's EEO policies, he/she may be subject to discipline up to and including termination and compensation may be affected.

16. Video Only agrees that it shall include "commitment to equal employment opportunity" or similar designation as a criterion for promotion to, or evaluation of, supervisory positions.

17. Video Only agrees to designate a specific individual who will respond to all complaints or inquiries of harassment, discrimination and/or retaliation. This individual shall be listed on Video Only's EEO policy distributed to all employees, as stated in Paragraph 12 above, along with a direct contact number for this individual. Video Only agrees that the designee named pursuant to this paragraph shall attend training, separate from the training provided for in paragraph 13, that describes proper complaint handling procedures and processes. This training shall occur annually for the life of this consent decree and shall last at least 4 hours.

F. Reporting

18. Video Only shall report in declaration form to the EEOC beginning six (6) months from the date of the entry of this Decree, and thereafter every twelve months for the duration of the decree the following information:

- a. Certification of the completion of training and list of attendees set forth in Paragraphs 13 and 17 above, and a list of all attendees including job titles.
- b. Certification that its EEO policy has been sent to all current and newly hired employees as described in Paragraph 12 above.
- c. A copy of its EEO policy and a list of any changes, modifications, revocations or revisions to its EEO policies and procedures which concern or affect the subject of discrimination and retaliation; and
- d. A summary of all harassment, discrimination and retaliation complaints, if any, filed by employees, identified by name, and the resolution of each complaint.

G. Posting

19. Video Only shall post a Notice, attached as Exhibit 1 to this Consent Decree. The Notice shall be posted at all Southcenter and Oregon Video Only facilities on a centrally located bulletin board or other place where such notices are normally posted and read by employees for the duration of the Consent Decree.

VII. ENFORCEMENT

20. If the EEOC determines that Video Only has not complied with the terms of this Decree, the EEOC shall provide written notification of the alleged breach to Video Only. The EEOC shall not petition the Court for enforcement of the Decree for at least thirty (30) days after providing written notification of the alleged breach. The 30-day period following the written

notice shall be used by the parties for good faith efforts to resolve the dispute, or for Video Only to cure the breach. In those cases where it would take longer than thirty (30) days to cure the breach, Video Only may have such additional time as may be necessary by agreement with the EEOC so long as Video Only takes all reasonable efforts to cure the breach within the thirty (30) day period.

VIII. RETENTION OF JURISDICTION

21. The United States District Court for the District of Oregon shall retain jurisdiction over this matter for the duration of the Decree.

IX. DURATION AND TERMINATION

22. This Decree shall be in effect for three (3) years from the date the Court enters this Decree. If the EEOC petitions the Court for breach of the Decree, and the Court finds Video Only to be in violation of the terms of the Decree, the Court may extend the duration of the Decree.

X. CONCLUSION

23. The parties are not bound by any provision of this decree until it is signed by authorized representatives of each party and is entered by the Court.

Dated this 22th day of July 2008.

BY: /s/William Tamayo

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EEOC v. VIDEO ONLY, INC.
[PROPOSED] CONSENT DECREE
Page 10

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NOTICE TO ALL EMPLOYEES

This notice is posted pursuant to a Consent Decree entered by the Court in the District of Oregon, in the case *EEOC v. Video Only, Inc.*, 06-1362KI, alleging that Video Only, Inc. ("Video Only") violated Title VII when it subjected two employees to a hostile work environment based on their race, national origin, and religion and then retaliated against them for complaining about the harassment which the company denies. The Consent Decree enjoins the company from certain conduct prohibited by law. Under the terms of the Decree, the company will enforce its anti-discrimination policies and procedures in its workforce. The company will also provide anti-discrimination and harassment training to its employees. The company will also provide reports to EEOC on its compliance with the terms of the consent decree. Video Only has agreed to provide monetary relief to the individuals in this lawsuit.

Federal law prohibits an employer from discriminating against any individual based on the individual's race, national origin and religion with respect to hiring, promotion, demotion, terms and conditions of employment, and/or termination. Federal law also prohibits an employer from allowing any employee to be harassed based on these bases. It is also unlawful for an employer to retaliate against any individual because he or she complains of discrimination or harassment, cooperates with the investigation of a discrimination or harassment charge by Video Only or a government agency, participates as a witness or potential witness in any investigation or legal proceeding, or otherwise exercises his or her rights under the law.

Any employee who is found to have retaliated against any other employee because such employee participated in this lawsuit will be subject to substantial discipline, up to and including immediate discharge.

Should you have any complaints of discrimination or retaliation, you should contact your supervisor or any upper level management individual. They can be reached at 503-283-3400.

Employees have the right to bring complaints of discrimination, harassment and/or retaliation to the U.S. **Equal Employment Opportunity Commission**, Seattle Field Office at 909 1st Avenue, Suite 400, Seattle, WA 98104-1061, 206/220-6885, 1-800-699-4000, and/or the **Washington State Human Rights Commission** at 711 South Capitol Way, Suite 402, Olympia, WA 98504, 800/233-3247, and/or the **Oregon Bureau of Labor and Industries** 800 NE Oregon St., Suite 1045, Portland, Or 97232, 971-673-0762. Employees or applicants may also contact **Video Only, Inc.** at 206-444-1655 to report harassment, discrimination or retaliation.

ORDER APPROVING CONSENT DECREE

The Court, having considered the foregoing stipulated agreement of the parties, HEREBY ORDERS THAT the foregoing Consent Decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to the defendant Video Only, Inc. or to the plaintiff, Equal Employment Opportunity Commission. The Court retains jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

DATED this 30 day of July, 2008.



GARR M. KING
United States District Court