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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

AMARILLO DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, WILLIAM BLOUNT, JOE CHARLES, JOHN CRAWFORD, Intervenor Plaintiff, v. RON CLARK FORD, INC., Defendant.

FILED OCT 24 2002

CLERK, U.S. DISTRICT COURT By Deputy

CASE NO. 2-01CV-0245-C



CONSENT DECREE

THIS CONSENT DECREE is made and entered into by and among the Plaintiff, Equal Employment Opportunity Commission ("EEOC"), the Defendant, Ron Clark Ford, Inc. ("Ron Clark Ford"), and the Intervenor, William Blount, Joe Charles and John Crawford ("Intervenor"), in the United States District Court for the Northern District of Texas, Amarillo Division, with regard to the EEOC's Complaint filed on June 27, 2001 ("EEOC Complaint"), in Civil Action No. 2-01CV-245-C, and Intervenor's Complaint filed October 19, 2001. These Complaints were based upon Charge of Discrimination Numbers 310A00735, 310A08180 and 310A01000 filed by William Blount, Joe Charles and John Crawford, respectively, against Ron Clark Ford, Inc.

The above-referenced Complaints allege that Ron Clark Ford, Inc. engaged in unlawful employment practices at its Amarillo, Texas vehicle dealership, in violation of Section 703(a)(1) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. Section 2000e-

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2(a)(1), by subjecting William Blount, Joe Charles, John Crawford and Aggrieved Individuals Dusty Harrison, Ulices Herrera and Richard Epps to a sexually hostile working environment. The Complaints alleged that this sexually hostile working environment was created by the conduct of the Ace Meason, Brad Cook and Chris Buttram, which included lewd comments and the illegal touching and groping of their genitals and buttocks resulting in their constructive discharge. In addition to alleging Title VII violations, the Intervenors also asserted various state law claims, including intentional infliction of emotional distress and assault. Ron Clark Ford, Inc. filed its Answer to the EEOC Complaint and the Complaint of the Intervenors, denying the allegations contained in each Complaint.

EEOC, Ron Clark Ford, Inc., Intervenors and the Aggrieved Individuals agree to compromise the differences embodied in the Complaints, and intend that the terms and conditions of the compromise be set forth in this Consent Decree ("Consent Decree").

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree resolves all issues raised in EEOC Charge Nos. 310A00735, 310A08180 and 310A01000. This Decree further resolves all issues in the Complaints filed by the EEOC, the Intervenors and the Aggrieved Individuals in this civil action. This Consent Decree does not resolve the pending state court action filed by Donald Mooney. The EEOC, the Intervenors and the Aggrieved Individuals waive further claims and/or litigation on all issues raised in the above-referenced charges and Complaints. The EEOC does not waive processing charges other than the charges of discrimination specifically referenced above.
2. The parties agree that this Consent Decree does not constitute an admission by

Ron Clark Ford, Inc. of any violation of Title VII, or any other state law claims including intentional infliction of emotional distress or assault.

3. Ron Clark Ford, Inc. agrees that it shall conduct all employment practices at its Amarillo, Texas facility in a manner which does not subject any employee to discrimination under Title VII.

**Scope of Consent Decree**

4. The duration of this Consent Decree shall be three (3) years from the date of entry of the Consent Decree. During that time, this Court shall retain jurisdiction over this matter and the Parties for purposes of enforcing compliance with the Consent Decree, including such orders as may be required to effectuate its purposes.

**General Provisions**

5. Ron Clark Ford, Inc. and its officers, agents, management, including supervisory employees on any level, i.e. closers, successors and assigns, and all those in active concert or participation with them, or any of them, agree to refrain from: (i) discriminating against any employee on the basis of sex; (ii) engaging in or being a party to any action, policy or practice that is intended to or is known to them to have the effect of harassing or intimidating any employee on the basis of gender; and/or (iii) creating, facilitating or permitting the existence of a work environment at its Amarillo, Texas facility that are hostile to its employees.

6. Ron Clark Ford, Inc. and its officers, agents, management, including supervisory employees on any level, i.e. closers, successors and assigns, and all those in active concert or participation with them, or any of them, agree to refrain from engaging in, implementing or permitting any action, policy or practice with the purpose of retaliating against any current or former employee of Ron Clark Ford, Inc. at its Amarillo, Texas facility because he or she

opposed any practice of sex discrimination, sexual harassment or sex-based harassment made unlawful under Title VII; filed a Charge of Discrimination alleging any such practice; testified or participated in any manner in any investigation (including, without limitation, any internal investigation undertaken by Ron Clark Ford, Inc.), proceeding, or hearing in connection with this case and/or relating to any claim of sex discrimination, sexual harassment or sex-based harassment; was identified as a possible witness in this action; asserted any rights under this Consent Decree; or sought and/or received any monetary and/or non-monetary relief in accordance with this Consent Decree.

**Non-Monetary Relief**

7. Ron Clark Ford, Inc. affirms the following “Statement of Zero-Tolerance Policy and Equality Objectives”:

Ron Clark Ford, Inc. is firmly committed to developing and maintaining a zero-tolerance policy concerning sexual harassment, sex-based harassment and retaliation against individuals who report harassment in the company’s workplace; to swiftly and firmly responding to any acts of sexual or sex-based harassment or retaliation of which the company becomes aware; to implementing a disciplinary system that is designed to strongly deter future acts of sexual or sex-based harassment or retaliation; and to actively monitoring its workplace in order to endure tolerance, respect and dignity for all people.

**Specific Non-Monetary Relief**

8. In order to effectuate the objectives embodied in Ron Clark Ford, Inc.’s Statement of Zero-Tolerance Policy and Equality Objectives and this Consent Decree, Ron Clark Ford, Inc. shall make whatever specific modifications are necessary to its existing policies, procedures and practices in order to ensure that the following policies, procedures and practices at its Amarillo, Texas facility are implemented. Further, the parties agree that this Consent Decree will be administered in a manner consistent with federal labor and employment discrimination laws.

**(a) Sexual Harassment Policy.**

Ron Clark Ford, Inc. agrees that it shall revise its sexual harassment policy, as necessary, in order to: (i) provide examples to supplement the definitions of sexual harassment and sex-based harassment; (ii) include strong non-retaliation language with examples to supplement the definition of retaliation, and provide for substantial and progressive discipline for incidents of retaliation; (iii) provide that complaints of sexual harassment, sex-based harassment and/or retaliation will be accepted by Ron Clark Ford, Inc. in writing and orally; (iv) provide a timetable for reporting harassment, for commencing an investigation after a complaint is made or received and for remedial action to be taken upon conclusion of an investigation; and (v) indicate that, promptly upon the conclusion of its investigation of a complaint, Ron Clark Ford, Inc. will communicate to the complaining party the results of the investigation and the remedial actions taken or proposed, if any.

**(b) Complaint Procedures.**

Ron Clark Ford, Inc. agrees that it shall: (i) revise its complaint procedure as necessary in order to ensure that it is designed to encourage employees to come forward with complaints about violation of its sexual harassment policy. As part of this policy, Ron Clark Ford, Inc. agrees that it shall provide its employees with convenient, confidential and reliable mechanisms for reporting incidents of sexual harassment, sex-based harassment and retaliation. Ron Clark Ford, Inc. agrees that it shall designate at least two employees from the department charged with investigating such issues as persons who may be contacted, and their names, responsibilities, work locations and telephone numbers shall be routinely and continuously posted. Also as part of its

procedure, Ron Clark Ford, Inc. agrees that it take seriously anonymous complaints received and investigate any anonymous complaint in a manner consistent with its newly established policy.

(ii) Ron Clark Ford, Inc. agrees that it shall revise its policies as necessary to enable complaining parties to be interviewed by Ron Clark Ford, Inc. about their complaints in such a manner that permits the complaining party, at such party's election, to remain inconspicuous to all of the employees in such party's work area. Ron Clark Ford, Inc. agrees that its complaint procedure shall not impose upon individuals seeking to make a complaint alleging sexual harassment, sex-based harassment and/or retaliation any requirements that are more burdensome than are imposed upon individuals who make other complaints of comparable gravity.

(iii) Ron Clark Ford, Inc. agrees that it shall revise its complaint handling and disciplinary procedures at its Amarillo, Texas facility as necessary to ensure that all complaints of sexual harassment, sex-based harassment and/or retaliation are investigated and addressed promptly. Specifically, Ron Clark Ford, Inc. agrees that it shall make best efforts to investigate all complaints of sexual harassment, sex-based harassment and/or retaliation promptly and to complete investigations within three (3) weeks. Ron Clark Ford, Inc. will further make best efforts to prepare its written findings of the results of each investigation and the remedial actions proposed or taken, if any, within seven (7) days after completion of the investigation, and shall thereupon promptly communicate to the complaining party the results of the investigation and the remedial actions taken or proposed, if any.

(iv) Ron Clark Ford, Inc. agrees that it shall make best efforts to ensure that

appropriate remedial action is taken to resolve complaints and to avoid the occurrence of further incidents of sexual harassment, sex-based harassment and/or retaliation, up to and including termination. Ron Clark Ford, Inc. specifically agrees that its complaint procedure shall include the power, in Ron Clark Ford, Inc.'s sole discretion, to order, during the pendency of the investigation, the immediate transfer of persons accused of having violated Ron Clark Ford, Inc.'s sexual harassment policy or of persons who claim to have been victims of such violations, as well as the power to order the permanent transfer, serious discipline or termination of employees found to have violated such policy, and, upon the request of the complaining party, the permanent transfer of any complaining party who is found to have been the victim of a violation of Ron Clark Ford, Inc.'s sexual harassment policy.

**(c) Policies Designed to Promote Supervisor/Closer Accountability.**

(i) Ron Clark Ford, Inc. agrees that it shall impose substantial discipline—up to and including termination, suspension without pay or demotion—upon any supervisor, manager, assistant manager or person with any supervisory authority, including closers—who engages in sexual harassment or sex-based harassment or permits any such conduct to occur in his or her work area or among employees under his or her supervision, or who retaliates against any person who complains or participates in any investigation or proceeding concerning any such conduct. Ron Clark Ford, Inc. shall communicate this policy to all of its supervisors and managers.

(ii) Ron Clark Ford, Inc. agrees that it shall continue to advise all managers and supervisors/closers of their duty to actively monitor their work areas to ensure employees' compliance with the company's sexual harassment policy, and to report any incidents

and/or complaints of sexual harassment, sex-based harassment and/or retaliation of which they become aware to the persons charged with handling such complaints.

(iii) Ron Clark Ford, Inc. agrees that it will revise its current supervisor/closer appraisal process to include performance evaluations for the handling of equal employment opportunity issues as an element in supervisor/closer appraisals.

(iv) Ron Clark Ford, Inc. agrees that it shall include "commitment to equal employment opportunity" as a criterion for qualification for supervisory positions.

**(d) Sexual Harassment Training**

(i) Ron Clark Ford, Inc. agrees that it shall provide mandatory annual sexual harassment training to all employees, supervisory and non-supervisory; to provide mandatory sexual harassment training to all new employees during employee orientation; to provide mandatory sexual harassment training to all senior management officials; to provide training to all persons charged with the handling of complaints of sexual harassment, sex-based harassment and/or retaliation related thereto. The training shall be at least two hours in duration and shall be conducted by experienced sexual harassment educators to educate employees about the problems of sexual harassment in the workplace and the techniques for investigating and stopping sexual harassment.

(ii) The training shall inform employees of the complaint procedure for those individuals who believe they have been sexually harassed or otherwise experienced sex-based discrimination. Further, the training shall advise all employees, including supervisors/closers and managers, of the consequences of violating Title VII and of the importance of working in an environment free of sexual harassment.

(iii) No less than 10 days before the annual training is conducted, Ron Clark Ford,



Inc. agrees to give written notice to the EEOC as to the date and location of the training, the name of the person providing the training and the substance of the training.

(iv) Ron Clark Ford, Inc. agrees that it shall require a senior management official to introduce all sexual harassment training to communicate Ron Clark Ford, Inc.'s commitment to its Statement of Zero-Tolerance Policy and Equality Objectives.

#### **Reporting Requirements**

9. For each year the Consent Decree is in effect, Ron Clark Ford, Inc. agrees it shall maintain a log of all complaints of sexual harassment, containing the name of the complainant, the name of the alleged harasser, the date of the complaint and the name of the person assigned to investigate the complaint and the final report and/or disciplinary response regarding the complaint. Ron Clark Ford, Inc. shall provide EEOC with a copy of the log, two times per year, on the 15th day of January and the 15th day of July, during the term of the Consent Decree

#### **Posting & Notice Requirements**

12. Within two (2) weeks after entry of this Consent Decree, Ron Clark Ford, Inc. shall post a notice (attached to this Consent Decree as Exhibit "A") in prominent and conspicuous locations throughout its Amarillo, Texas facility. This notice shall inform employees that sexual harassment, sex-based harassment and/or discrimination and retaliation will not be tolerated and that the first violation thereof will subject the employee found to have violated the company's sexual harassment policy to those disciplinary consequences specified within the policy.

13. The notice shall also inform employees where to report violations of Ron Clark Ford, Inc.'s sexual harassment policy, the name of the designated company official to whom they should report said violations, along with the address and telephone number of the Dallas District

Office of the EEOC. The notice shall remain posted for the duration of this Consent Decree. In the event that the persons and/or departments to whom individuals should make complaints alleging sexual harassment, sex-based harassment and/or retaliation change during the term of the Consent Decree such that the information contained in the notice is no longer accurate, Ron Clark Ford, Inc. shall immediately prepare and post a revised notice that contains the correct information. Ron Clark Ford, Inc. shall promptly thereafter forward a copy of the revised notice to the EEOC.

14. Ron Clark Ford, Inc., agrees to distribute the Notice attached hereto as Exhibit "A" to each employee. Within 30 days of the date of the entry of this Consent Decree, a copy of Exhibit "A" will be enclosed in an envelope containing each employee's paycheck. Also enclosed in each envelope will be a notice stating the following: Ron Clark Ford, Inc. is committed to providing a workplace free of discrimination of any kind. Please read the enclosed notice and keep a copy for your records." New employees will be given a copy of the notice, Exhibit "A," within thirty days of the date of their hire. This procedure will remain in effect during the pendency of the Consent Decree.

15. Ron Clark Ford, Inc. agrees to post a copy of the notice, as described in paragraphs 12-13, above, within fourteen (14) days after entry of this Consent Decree. Ron Clark Ford, Inc. will thereafter report to the EEOC that it has complied with this requirement within fourteen (14) days after posting the notice.

**Monetary Relief**

16. Ron Clark Ford, Inc. agrees to pay or cause to be paid the gross amount of \$140,000.00 to resolve all claims for damages to William Blount, Joe Charles, John Crawford, Dusty Harrison, Ulices Herrera and Richard Epps, in and for compensatory damages, inclusive of

costs and attorney fees. Within ten (10) days of the entry of this Consent Decree, EEOC will inform Ron Clark Ford, Inc. to whom and in what amount to issue the checks. Within ten (10) days of this notification, Ron Clark Ford, Inc. will issue or cause to be issued the checks and mail them to the attention of Equal Employment Opportunity Commission, 207 S. Houston, Third Floor, Dallas, Texas 75202, Attention William C. Backhaus. Checks made payable to William Blount, Joe Charles and John Crawford shall also be made payable to their attorneys.

17. If Ron Clark Ford, Inc. fails to tender payment or otherwise fails to timely comply with the terms of Paragraphs 16 above, shall:

- a. Pay interest at the rate calculated pursuant to 26 U.S.C. Section 6621(b) on any untimely or unpaid amounts; and
- b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the defendant.

18. Neither the EEOC, Intervenors, Aggrieved Individuals nor Ron Clark Ford, Inc. shall contest the validity of this Consent Decree nor the jurisdiction of the federal district court to enforce this Consent Decree and its terms or the right of any party to the Consent Decree to bring an enforcement action upon breach of any term of this Consent Decree by any such party. Nothing in this Consent Decree shall be construed to preclude the EEOC from enforcing this Consent Decree in the event that Ron Clark Ford, Inc. fails to perform the promises and representations contained herein. The EEOC shall be authorized to seek compliance with the Consent Decree through civil action in the United States District Court. The EEOC also reserves the right to seek contempt sanctions for non-payment and non-compliance with this Consent Decree.

#### Costs

19. The parties to this Consent Decree agree to bear their own costs associated with

the litigation of the above-referenced Complaint and the administration of this Consent Decree.

**Other General Provisions**

20. **Neutral Job Reference:** Ron Clark Ford, Inc. agrees to provide a neutral letter of reference for William Blount, Joe Charles, John Crawford, Dusty Harrison, Ulices Herrera and Richard Epps, include the dates of his employment, the last position held and the last salary or commission structure earned. Said letters of reference shall be delivered to William C. Backhaus at the EEOC address contained herein within ten (10) day of the entry of this Consent Decree.

21. **Personnel File Expungement:** Ron Clark Ford, Inc. agrees to remove from all personnel files of William Blount, Joe Charles, John Crawford, Dusty Harrison, Ulices Herrera and Richard Epps all documents, entries and references relating to: the facts and circumstances which led to the filing of the charges of discrimination; the charges themselves; and the complaint filed by the EEOC, Intervenors and Aggrieved Individuals in federal court based upon charges.

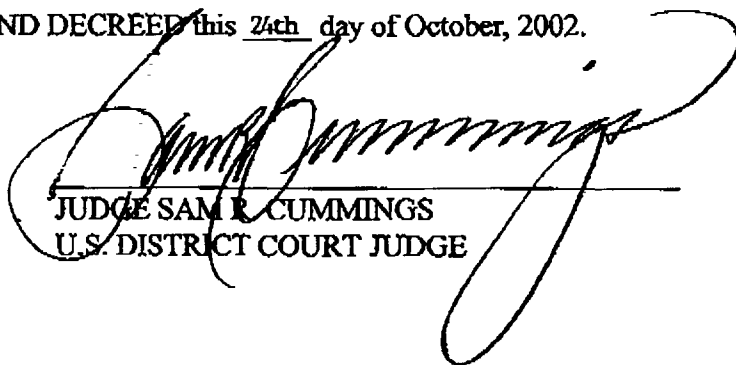
22. **Computation of Time Periods:** In computing any period of time prescribed or allowed by this Consent Decree, unless otherwise stated, such computation shall be made consistent with the Federal Rules of Civil Procedure.

23. **Notices:** Except as otherwise provided for in this Consent Decree, all notification, reports and communications to the parties required under this Consent Decree shall be made in writing and shall be sufficient if hand-delivered or sent by first-class mail to the following persons: William C. Backhaus, Sr. Trial Attorney, Dallas District Office for the U.S. E.E.O.C., 207 S. Houston Street, Third Floor, Dallas, Texas 75202.

24. **Integration:** This Consent Decree constitutes the entire agreement between Ron Clark Ford, Inc., Intervenors, Aggrieved Individuals and EEOC hereto with respect to the matters

herein and it supersedes all negotiations, representations, comments, contracts and writings prior to the date of this Decree.

SO ORDERED, ADJUDGED AND DECREED this 24th day of October, 2002.



JUDGE SAM R. CUMMINGS  
U.S. DISTRICT COURT JUDGE

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APPROVED AS TO FORM AND SUBSTANCE:

Respectfully Submitted:

ON BEHALF OF THE EEOC:

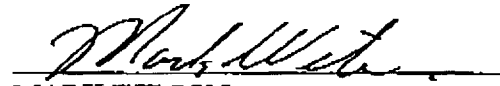
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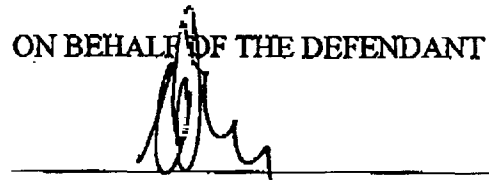
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