

THE HONORABLE JOHN C. COUGHENOUR

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 AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 BY DEPUTY

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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EQUAL EMPLOYMENT OPPORTUNITY)
 COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 IQUIQUE U.S., L.L.C. AND ARICA)
 FISHING COMPANY,)
)
 Defendants.)

CIVIL NO. C99-1527C

CONSENT DECREE

I. INTRODUCTION

1. This action originated with charges of discrimination filed by John Stevens, Edilberto Quinteros, Edgar Archer, Eloy Rodriguez, Jose Oscar Abarca, Carmen Hernandez and Alfredo Torrellas with the Equal Employment Opportunity Commission (EEOC), alleging violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. ("Title VII").

2. Iquique U.S., L.L.C. and Arica Fishing Company ("Iquique/Arica"), have denied these allegations.

3. The Commission and the defendants want to fully and finally conclude all claims arising out of the above charges without the expenditure of further resources and expenses in contested litigation. They agree that entry of this consent decree will be in the interest of the parties

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1 and will further the objectives of equal employment opportunity as set forth in Title VII.

2 **II. JURISDICTION AND VENUE**

3 4. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343
4 and 1345. This action is authorized pursuant to Sections 705(g)(6), 706(f)(1) and (3) and Section
5 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000e-4(f)(6), 2000e-
6 5(f)(1) and (3) and 2000c-6 ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C.
7 §1981a. Some of the employment practices alleged to be unlawful in the complaint filed herein
8 occurred within the jurisdiction of the United States District Court for the Western District of
9 Washington.

10 **III. PURPOSE OF THE DECREE**

11 5. The parties have entered into this Consent Decree in order to achieve the following
12 purposes:

- 13 a. To assure the implementation of policies and procedures which prohibit
14 Iquique/Arica from discriminating or retaliating against employees on the basis of national origin.
- 15 b. To assure that Iquique/Arica implement a policy and enforcement program to
16 effectively prevent discrimination and harassment based upon national origin and to address and
17 correct situations in which such discrimination and harassment is alleged.
- 18 c. To assure that John Stevens, Edilberto Quinteros, Edgar Archer, Eloy
19 Rodriguez, Jose Oscar Abarca, Carmen Hernandez and Alfredo Torrellas ("the claimants") are fully
20 compensated for lost wages and damages suffered in connection with their employment with
21 Iquique/Arica.
- 22 d. To avoid the time, expense and uncertainty of further litigation.

23 **IV. GENERAL PROVISIONS**

24 6. This Consent Decree is intended to and does effectuate the full, final, and complete
25 resolution of all allegations of unlawful employment practices and discrimination encompassed by
26 the original discrimination charges and the complaint filed in EEOC v. Iquique U.S., L.L.C. and
27 Arica Fishing Company, Civil No. C99-1527C, pursuant to Title VII of the Civil Rights Act of 1964,

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1 as amended, 42 U.S.C. §2000e, et seq.

2 7. No findings have been made by the Court substantiating or refuting any of the
3 allegations made by EEOC on behalf of the claimants. The existence of this Consent Decree shall
4 not in any way constitute an admission by defendants that it has violated Title VII or any other
5 applicable law.

6 8. This Consent Decree constitutes the complete understanding between the EEOC and
7 Iquique/Arica with respect to matters herein. No waiver, modification or amendment to any
8 provisions of this Consent Decree will be effective unless it is agreed to in accordance with
9 provisions of Section IX, Consent Decree Amendment Procedures.

10 9. Except as contained in this subparagraph, this Consent Decree in no way affects
11 EEOC's right to process, in accordance with standard Commission procedures, charges filed by
12 individuals against Iquique/Arica alleging violations of Title VII. Charges include those pending as
13 of the effective date of this Consent Decree and filed in the future. Processing includes the
14 administrative investigation and conciliation and commencement of civil actions on the basis of such
15 charges.

16 10. It is expressly agreed that if EEOC concludes that Iquique/Arica has failed to comply
17 with this Consent Decree, the Commission may bring an action in the United States District Court
18 for the Western District of Washington to enforce this Consent Decree after compliance with the
19 terms in Section VIII, Dispute Resolution Procedures.

20 **V. DEFINITION OF TERMS**

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

22 11. "The Effective Date of This Consent Decree" is the date the Consent Decree is
23 approved by the United States District Court for the Western District of Washington.

24 12. Unless otherwise indicated, the word "days" refers to calendar days.

25 13. "Key Crew" refers to the captain, master, mate, bosun, chief engineer, factory
26 manager, factory foreperson and chief cook.

1 14. "Formal or Informal Complaints" includes any complaint, whether written or oral,
2 made to a supervisory employee, i.e., captain, mate, chief engineer, deck boss, factory foreman,
3 assistant factory foreman and cook, of Iquique/Arica.

4 **VI. MONETARY RELIEF**

5 15. In settlement of the Commission's claims for employment discrimination alleged in
6 the complaint, Iquique/Arica agrees to pay the claimants \$122,500.00, less applicable withholding
7 required by law. Within ten (10) days of execution of the Consent Decree, Iquique/Arica will mail
8 separate checks to the home addresses of each of the seven claimants in the amount of \$17,500, less
9 applicable withholding required by law.

10 **VII. INJUNCTIVE RELIEF**

11 **A. Compliance With Title VII**

12 16. Defendants reaffirm their commitment to comply with Title VII and other federal
13 anti-discrimination statutes. In furtherance of this commitment, Iquique/Arica will monitor the
14 affirmative obligations of this Consent Decree. Iquique/Arica reaffirm that they will not
15 discriminate against employees on the basis of national origin, race or ethnicity in any employment
16 decisions.

17 17. Defendants will not retaliate against any employee for making a charge of
18 discrimination or for testifying, assisting, or participating in any investigation, proceeding, or hearing
19 associated with this lawsuit.

20 18. In recognition of its obligations under Title VII, Iquique/Arica will institute the
21 policies and practices set forth below.

22 19. Iquique/Arica will translate the EEO provisions set forth in its Employee Handbook
23 into Spanish to ensure that the Spanish-speaking processors working for Iquique/Arica can
24 understand the process which is to be employed for reporting any type of discriminatory treatment.

25 20. Within one hundred twenty (120) days of the Effective Date of this Consent Decree,
26 Iquique/Arica will amend its Employee Handbook to include the Spanish language provisions and
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1 will distribute the amended Employee Handbook to all current Spanish-speaking employees and
2 Spanish-speaking new hires.

3 21. Iquique/Arica will be required to follow the policies and procedures for reporting and
4 investigating any formal or informal allegations of discriminatory treatment for the duration of this
5 Consent Decree.

6 **B. Posting Notice**

7 22. Iquique/Arica will post the notice attached as Attachment A to this Consent Decree.
8 The Notice shall be posted on a centrally located bulletin board on all Iquique/Arica vessels and
9 facilities where employees will see the Notice for the duration of the consent decree. Iquique/Arica
10 will also post in the same location a copy of the EEO policy referenced in paragraph 19.

11 **C. Expunging Records**

12 23. Defendants will not disclose any information or make references to any charges of
13 discrimination or this lawsuit in responding to employment reference requests for information about
14 the claimants.

15 24. Defendants will expunge from the personnel files of the claimants any references to
16 charges of discrimination against Iquique/Arica and this lawsuit. Iquique/Arica will not add any
17 information or references to the personnel files of the claimants or records regarding their charges of
18 discrimination and this lawsuit after such references have been expunged.

19 **D. Training And Awareness Program**

20 25. To further the purposes and requirements of this Consent Decree, Iquique/Arica will
21 provide two (2) hours of training to all key crew with regard to Iquique/Arica's policies and
22 procedures regarding discrimination and harassment. With regard to all other employees,
23 Iquique/Arica will prepare and present a videotape which outlines the companies' policies and
24 procedures with regard to discrimination and harassment. The videotape will feature a high ranking
25 Iquique officer and will be shown to employees at the start of each fishing season beginning in
26 January 2001.

27 26. The objectives of the training outlined in paragraph 25 above will be to convey to

1 employees Iquique/Arica's commitment to the personnel policies and procedures established by this
2 Consent Decree and to provide information and guidance on how to carry out those policies, and for
3 individual employees, how to utilize those policies and procedures. Iquique/Arica will utilize outside
4 resources to assist with the development of this training. No later than sixty (60) days after the
5 effective date of the Consent Decree, the Commission, Iquique/Arica, and any other individuals
6 involved in developing the training will discuss the objectives of the training and the concepts and
7 approaches to be used. Iquique/Arica will provide to the Commission, within ninety (90) days of the
8 effective date of this Consent Decree, a detailed outline of the training to be given. Within thirty (30)
9 days of receipt of the outline, the Commission may provide any comments to Iquique/Arica with
10 respect to the substance of the training as outlined, which Iquique/Arica will consider. Iquique/Arica
11 will provide to the Commission a copy of the materials to be used in the training. Iquique/Arica will
12 likewise provide the Commission with any material revisions to such materials prior to implementing
13 the revisions. Iquique/Arica will provide information concerning the scheduled training locations,
14 dates, and times to the Commission.

15 **E. Administration of the Consent Decree**

16 27. Iquique/Arica will be fully responsible for implementing this Consent Decree.
17 Iquique's President (currently Mike Zubko) shall have ultimate responsibility for implementation of
18 the objectives under this Consent Decree. Iquique/Arica has appointed Jackie Little, Iquique/Arica's
19 Personnel Manager as its Consent Decree Administrator.

20 28. To assist the Consent Decree Administrator in assuring compliance with the Consent
21 Decree, Iquique/Arica will make available outside resources on equal employment law and/or
22 practice.

23 29. Iquique/Arica will provide the Consent Decree Administrator with all support
24 necessary to carry out her duties under the Consent Decree, including:

- 25 a. Preparation of all reports required by the Consent Decree Administrator,
- 26 b. Administrative and professional support as needed; and,
- 27 c. Access to personnel officials, managers, and other employees.

1 30. The Consent Decree Administrator's major areas of responsibility will include:

- 2 a. Preparation and submission to EEOC of the reports on compliance with this
3 Consent Decree as set forth in Section VII, E, Reporting and Record Keeping;
- 4 b. Providing information to employees concerning Iquique/Arica's obligations
5 under the Consent Decree concerning matters of discrimination and harassment;
- 6 c. Responding to employee inquiries concerning the provisions of this Consent
7 Decree;
- 8 d. Participating in training sponsored by Iquique/Arica, including that provided
9 for in this Consent Decree;
- 10 e. Investigating complaints regarding possible violations of Iquique/Arica's non-
11 discrimination and harassment policy and reporting the results of the investigations to Iquique/Arica's
12 President.
- 13 f. Issuing discipline to supervisors, managers, and any other employees for
14 Consent Decree violations and violations of Iquique/Arica's non-discrimination and harassment
15 policy.
- 16 g. Participating in discussions held among the parties to implement the Consent
17 Decree, to resolve disputes under the Consent Decree or to otherwise amend the Consent Decree.

18 **F. Policies Designed To Promote Supervisor Accountability**

19 31. Iquique/Arica agrees that it shall impose substantial discipline -- up to and including
20 termination, suspension without pay or demotion -- upon any supervisor or manager who engages in
21 national origin harassment or racially-based harassment or with active or constructive knowledge
22 permits any such conduct to occur in his or her work area or among employees under his or her
23 supervision, or who retaliates against any person who complains or participates in any investigation or
24 proceeding concerning any such conduct. Employees who have been disciplined for national origin
25 harassment in the past shall receive progressively more severe discipline. Iquique/Arica shall
26 communicate this policy to all of its supervisors and managers in its Employee Handbook.

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1 32. Iquique/Arica agrees that it shall continue to advise all managers and supervisors of
2 their duty to actively monitor their work areas to ensure employees' compliance with the company's
3 non-discrimination and harassment policy, and to report any incidents and/or complaints of national
4 origin discrimination, racially-based harassment and/or retaliation of which they become aware to the
5 Personnel Manager or President of Iquique/Arica.

6 33. Iquique/Arica agrees that it will revise its supervisor appraisal process to include
7 performance evaluations for the handling of equal employment opportunity ("EEO") issues as an
8 element in supervisor appraisals and in any employment action based thereon.

9 34. Iquique/Arica agrees that it shall include "commitment to equal employment
10 opportunity" as a criterion for qualification for supervisory positions.

11 **G. Reporting, Record Keeping And Compliance Review**

12 35. The reports to be submitted by Iquique/Arica on a periodic basis as provided in this
13 Section will be forwarded so as to arrive at the Commission within thirty (30) days after the close of
14 the reporting period.

15 36. Within one hundred fifty (150) days after the Effective Date of this Consent Decree,
16 Iquique/Arica will provide the Commission with the following items:

17 a. A report confirming the date of the distribution to Spanish-speaking processors
18 of copies of the amended Employee Handbooks; (Report 1A).

19 37. On a quarterly basis beginning within one hundred fifty (150) days of the Effective
20 Date of this Consent Decree, for the duration of this Consent Decree, Iquique/Arica will prepare and
21 submit the reports described below:

22 a. A report on internal and external complaints of national origin, race or ethnicity
23 discrimination and/or harassment. This report will provide for each such formal or informal complaint
24 filed and/or resolved during the period, the name, sex, and national origin, race or ethnicity of the
25 person making the complaint, the date the complaint was made, a description of the complaint, and
26 resolution or status of each complaint. Copies of any complaint made during the reporting period and
27 copies of documents relating to any complaints resolved during the period will be provided along with

1 the report. (Report 1B);

2 b. A report of all training activities held during the period. (Report 2B);

3 38. All records required by this Consent Decree will be retained by Iquique/Arca for the
4 duration of this Consent Decree. Iquique/Arca will also maintain records necessary to demonstrate
5 compliance with the provisions of this Consent Decree and to verify reports submitted, which records
6 shall include, but are not limited to:

7 a. Records concerning national origin, race or ethnicity discrimination and/or
8 harassment incidents or complaints, including documentary evidence and summaries of interviews
9 conducted during the investigations, and the findings, resolutions and/or conclusions reached;

10 b. Documents relating to any disciplinary action taken by Iquique/Arca against
11 any employee resulting from inappropriate conduct which could be construed as discrimination and/or
12 harassment of another employee on the basis of national origin, race or ethnicity;

13 c. Documentation on individual and group training materials used during the
14 training sessions outlined in Section VII, C, Training and Awareness;

15 39. For the duration of this Consent Decree, the Commission shall have the right to request
16 information and conduct on-site reviews if the Commission determines such reviews are necessary to
17 effectuate the purposes of this Consent Decree, including conducting interviews, attending training
18 held pursuant to the Consent Decree, and examining documents and data maintained by Iquique/Arca
19 pursuant to this Consent Decree and Commission regulations for the purpose of confirming
20 compliance with this Consent Decree Order. The Commission agrees that it will provide reasonable
21 notice to Iquique/Arca's counsel prior to conducting any review.

22 40. After the expiration of this Consent Decree, records will be maintained by
23 Iquique/Arca as required by law and Commission regulations.

24 41. Iquique/Arca will also provide EEO-1 data as required by federal law.

25 42. Iquique/Arca, in any employment advertisements that it may run, shall include
26 information that it is an equal opportunity employer.

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VIII. DISPUTE RESOLUTION PROCEDURES

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2 43. Either party shall have the right to initiate an action pursuant to the Court's continuing
3 jurisdiction for an unresolved dispute or for non-compliance with any provision of the Consent
4 Decree, as follows:

5 a. If one party believes that there is an issue to resolve, it shall promptly give
6 notice, in writing, to the other party regarding (1) the specific provision, which it believes has not
7 been met, and (2) a complete factual statement of the issue.

8 b. The parties shall promptly undertake efforts to resolve the areas of dispute or
9 alleged non-compliance, through meetings, mediation or other appropriate means.

10 c. If one party determines that efforts to resolve the matter have failed, the party
11 so finding shall notify the other party in writing of such failure to resolve the matter and provide a
12 description of the facts and circumstances surrounding the matter.

13 d. The parties shall request that the Court appoint a mediator within forty-five
14 (45) days of receipt in writing of the notice of impasse. Discussions will be engaged in with the
15 assistance of the Court appointed mediator until the mediator determines that discussions are no
16 longer productive.

IX. DECREE AMENDMENT PROCEDURES

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18 44. This Consent Decree may be modified by mutual written agreement between the
19 Commission and Iquique/Arica, or by motion to the Court.

20 45. Any modification to the Consent Decree is subject to approval by the Court.

X. DURATION OF THE DECREE

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22 46. This Consent Decree will become effective on the date approved and signed by the
23 United States District Court, Western District of Washington, and will remain in effect for a period of
24 two (2) years. If either party petitions the Court for breach of the decree, and the Court finds a
25 violation of the terms of the decree, the Court may extend the duration of the decree.

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XI. RETENTION OF JURISDICTION

48. The United States District Court for the Western District of Washington shall retain jurisdiction over this matter for the duration of the Consent Decree.

DATED this 6th day of December, 2000.

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

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Attorneys for EEOC

BY: Michael Zubko

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NOTICE TO ALL EMPLOYEES

This notice is being posted pursuant to an agreement with Iquique U.S., L.L.C., Arica Fishing Company and the Equal Employment Opportunity Commission, entered as the result of a settlement of a lawsuit pending in the federal district court for the Western District of Washington at Seattle, Civil No. C99-1527C.

Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, and the Americans with Disabilities Act of 1990 are enforced by the EEOC and require the following:

That there be no discrimination against any employee or applicant for employment because of the employee's race, sex, color, religion, national origin, age (over age 40), or disability with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment.

It is an unlawful employment practice for an employer to retaliate against any employees or applicants for employment because they have opposed a practice or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under these statutes.

Iquique U.S., L.L.C. and Arica Fishing Company have posted this notice because the companies support and will comply with these federal laws in all respects and will not take any retaliatory action against employees because they have exercised their rights under the law.

DATED 12-6-00

Iquique U.S., L.L.C./Arica Fishing Company


