

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff, :

:

and

BAHT TZIYON,

Plaintiff-Intervenor, :

vs.

RACETRAC PETROLEUM, INC.

Defendant. :

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

**Civil Action No.
1:06-CV-0761**

**JURY TRIAL
DEMANDED**

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission (hereinafter, the "Commission") against Defendant RaceTrac Petroleum Inc. (hereinafter the "Defendant") pursuant to Section 706(f)(a) and (3) of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000e et seq. (hereinafter referred to as "Title VII") and the Civil Rights Act of 1991, 42 U.S.C. § 1981(a) to remedy the alleged wrongful employment practices identified in the Complaint filed in this action.

This Court has jurisdiction of the subject matter of this action and of the parties to this action.

The Commission alleged in the foregoing civil action that the Defendant acted unlawfully by subjecting Plaintiff-Intervenor, Baht Tziyon (formerly known as Dian Paul), to discrimination based upon her religion and retaliation in violation of Title VII. In its Complaint, the Commission sought to make whole Ms. Tziyon seeking relief including, but not limited to, back pay relief with interest, compensatory and punitive damages, and injunctive and other affirmative relief.

The Defendant filed its Answer denying the allegations made by the Commission. Defendant disputes and denies any liability to the Commission and/or Ms. Tziyon. This agreement is not to be deemed or construed to be an admission of liability or wrongdoing by Defendant but constitutes the good faith settlement of a disputed claim.

The parties to this action desire to avoid the additional expense, and delay which would result from the continuance of this litigation and desire to formulate a plan to be embodied in a Consent Decree which will promote and effectuate the purposes of Title VII.

This Court has reviewed the terms of the proposed Consent Decree in light of the pleadings and the applicable law and regulations, and has approved this

Consent Decree as one which will promote and effectuate the purposes of Title VII.

Now, therefore, this Court, being fully advised in the premises, it is hereby ORDERED, ADJUDGED AND DECREED:

I. DISCLAIMER OF VIOLATION

It is understood and agreed that the negotiation, execution and entry of this Consent Decree, and the undertakings made by Defendant hereunder, are in settlement and compromise of a disputed claim of alleged religious discrimination and retaliation, the validity of which Defendant denies. Neither the negotiation, execution nor entry of this Consent Decree shall constitute an acknowledgment or admission of any kind by the Defendant that its officers, agents or employees have violated or have not been in compliance with Title VII or any rules and regulations issued under or pursuant to Title VII or any other applicable law, regulation or order.

II. NON-DISCRIMINATION AND NON-RETALIATION

Defendant shall not discriminate against any employee or affected group member in any aspect of employment on the basis of religion and shall not retaliate against Tziyon or any person because that person is a beneficiary of the Consent Decree,

or has provided information or assistance, or has participated in any other manner in any investigation or proceeding relating to this Consent Decree.

Defendant, to ensure equal opportunity in the employment process, shall make all decisions affecting hiring, promotion, compensation, job assignment, sick and disability leave, discharge and other terms, conditions and privileges of employment, without regard to race, color, sex, religion or national origin. The Defendant shall not retaliate or take any adverse action against any other persons in the future because of their opposition to practices they believe are in violation of Title VII or because of their participation in the investigation of the charge or prosecution of this litigation.

III. NOTICES TO BE POSTED: INSTRUCTION TO MANAGEMENT

Pursuant to Section 711 of Title VII, Defendant shall keep posted the Notice attached hereto as Exhibit A for twenty -four (24) months immediately following the entry of this Decree . The posting required by this paragraph shall be conspicuously made on bulletin boards or locations at the Georgia Regional Store Support Center in a manner so that employees will observe at least one such posting when at the Georgia Regional Store Support Center. Defendant shall certify the completion of the posting to the Commission within thirty (30) days

from the entry of this Consent Decree. All written certification required by this Section shall be addressed to Robert Dawkins, Regional Attorney, Atlanta District Office, 100 Alabama Street, Suite 4R30, Atlanta, Georgia 30303.

Defendant shall not withhold the right of the Commission to enter upon Defendant's premises, with reasonable notice, to monitor compliance with this Section. Should the Notice become defaced, marred, or otherwise unreadable, Defendant shall ensure that a new, readable copy of the Notice is posted in the same manner as heretofore specified.

IV. INSTRUCTION TO MANAGEMENT

Within thirty (30) days from the entry of this Decree, Defendant shall certify, in writing, to the EEOC that all Human Resources senior vice presidents, vice presidents, executive directors, directors, managers, and supervisors employed at Defendant's Store Support Center, all Human Resources field personnel employed in Defendant's Georgia market, and all field management (operations) employees for the Georgia region have been instructed as to the terms of this Consent Decree (other than the monetary amount of the settlement), and the full meaning of the provisions of the Notice to be posted, and that Defendant has reaffirmed with these employees that employment decisions are not to be made on

any basis that is prohibited by Title VII. All written certification required by this Section shall be addressed to the Regional Attorney Robert Dawkins, at the EEOC's Atlanta District Office at the above-referenced address.

V. TRAINING

The Defendant shall at least once during the term of this Consent Decree hold a training session in an appropriate location for all Human Resources senior vice presidents, vice presidents, executive directors, directors, managers, and supervisors employed at Defendant's Store Support Center, all Human Resources field personnel employed in Defendant's Georgia market, and all field management (operations) employees for the Georgia region. Said training session shall address the Defendant's and its employees' equal employment opportunity obligations under Title VII, including, but not limited to, the Defendant's obligations to comply with Title VII, specifically regarding religious discrimination and retaliation.

The Defendant shall provide written certification to the Commission of the completion of this training within thirty (30) days after the training. The certification shall include the name(s) and qualifications of the person(s) providing instruction, names and job titles of attendees, length of training, training topics,

and any other pertinent information about the training, including any written materials that were utilized as part of the training.

All written certification required by this Section V of the Consent Decree shall be addressed and forwarded to Robert Dawkins, Regional Attorney (hereinafter the "Regional Attorney"), Atlanta District Office, 100 Alabama Street, Suite 4R30, Atlanta, Georgia 30303.

VI. REPORTING REQUIREMENT

Every six months during the duration of this Consent Decree, Defendant shall certify in written affidavit form to the Regional Attorney of the Commission's Atlanta District Office whether Defendant has received any complaints of religious discrimination/retaliation through its Professional Conduct Hotline from any employees of Defendant's stores within the Georgia region. If an employee has so complained, then the summary report shall state the following:

- (a) The date of the complaint or report,
- (b) The name of the person making the complaint or report,
- (c) The name and title of the person against whom the complaint or report was made,
- (d) The nature of the complaint or report,

(e) The name and title of the Defendant's official who received the complaint or report,

(f) What, if any, action was taken by Defendant in response to the complaint or report (e.g. employee discipline), and

(g) An explanation of how Defendant resolved the complaint or report.

VII. CHARGING PARTY'S INDIVIDUAL RELIEF: **MONETARY RELIEF**

Defendant, in settlement of all alleged claims, shall provide Baht Tziyon and her attorney the gross amount of (\$125,000.00) in a manner agreed upon by the parties. Defendant shall inform the Regional Attorney in the Atlanta District Office of such payment within (5) working days by sending the Regional Attorney a copy of the relevant check(s). The parties agree that any deductions for tax considerations will be exclusively handled by Ms. Tziyon and her attorney.

VIII. REFERENCES

Defendant agrees that if it receives inquiries from persons or prospective employers seeking a reference or other employment related information regarding Ms. Tziyon, it shall provide a neutral reference, citing the dates of employment (@ 10/10/01 – 9/25/02) and the positions held (Swinging Manager and Staffing Coordinator). Defendant will make no mention to persons or prospective

employers seeking a reference of the fact that Ms. Tziyon filed a charge of discrimination or that the instant lawsuit was filed. Ms. Tziyon agrees that she will direct any such references to the attention of Defendant's Human Resources Manager for the Georgia market.

IX. DISCIPLINARY POLICY ON RELIGIOUS DISCRIMINATION AND RETALIATION

Defendant agrees to revise its professional conduct policy which addresses equal employment opportunity and which will prohibit, among other things, religious discrimination and retaliation and provide for disciplinary action against violators. Defendant agrees that the policy will specify how complaints regarding all forms of discrimination and retaliation, including religion, should be made and that the policy advises employees that Defendant will take prompt remedial action upon receiving such complaints. Defendant agrees to reemphasize this policy to all employees, particularly those who perform in a supervisory or management capacity, and to require all management employees to sign an acknowledgment that the policy has been read and understood within thirty (30) days of the effective date of this Decree. Defendant agrees that this policy will be emphasized to all new hires.

X. PROCEDURE FOR ENFORCING COMPLIANCE

The Commission will attempt to resolve any dispute regarding the enforcement of this Consent Decree by informal mediation and consultation before seeking enforcement through the judicial process. The Commission will notify Defendants in writing by certified mail to Joseph Akers (Corporate Counsel, RACETRAC PETROLEUM, INC., 3225 Cumberland Boulevard, Suite 100, Atlanta, GA 30339) if it has any reason to believe that any action or omission by the Defendant is in violation of the Consent Decree. Defendant shall have thirty (30) days after the receipt of such notification to cure any such alleged deficiency, and to notify the Commission, by written report addressed to the Regional Attorney for the EEOC's Atlanta District Office, of the measures taken to cure the alleged deficiencies. If upon receipt of Defendant's report the Commission concludes that the deficiency has not been satisfactorily cured by the Defendant, the Commission shall seek to resolve the alleged deficiency through good faith conciliation or mediation. If the alleged deficiency is not resolved within thirty (30) days after the initiation of such good faith conciliation or mediation process, then the Commission may seek enforcement of this Consent Decree through the judicial process.

XI. COMPLIANCE OFFICIAL

Defendant has designated Joseph Aker s as a co mpliance official who shall be responsible for compliance with this Consent Decree, and also responsible for coordinating and overseeing Defendant's compliance with this Consent Decree.

XII. TERMS OF DECREE - PERIOD OF JURISDICTION

This Consent Decree shall continue to be effective and bi nding upon the parties to this action for a period of twenty-four (24) months immediately following the entry of the Decree, provided that all remedial benefits required hereby have been received or offered prior to its expiration and provided further, that all required reports and certifications are submitted at least thirty (30) days before the expiration date of the Consent Decree. If required reports are not submitted within thirty (30) days of the e xpiration date or if th e remedial benefits are not re ceived or offered, the Consen t Decree will be automatically extended until these provisions are completed.

This Court shall retain jurisdiction over this action for the purposes of clarifying and enforcing this Consent De cree and for any other appropriate or equitable purposes for twenty-four m onths (24) months from the date of entry of this Consent Decree, unless the Court act s or the Commission has, prior to the

expiration of said twenty-four (24) month period, moved to enforce compliance with the Consent Decree. If this Court acts or the Commission has moved to enforce compliance with this Consent Decree within this period, this Court shall retain jurisdiction of this action until all issues relating to all such motions which are made during the twenty-four month (24) month period have been resolved. Thereafter, this Court shall dissolve this Consent Decree and shall dismiss this cause with prejudice.

XIII. OTHER ACTIONS

The Commission shall not commence or prosecute against Defendant any action or other proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities which arise out of EEOC Charge Number 110-2002-04527, investigation of the charge, or this lawsuit. This Consent Decree in no way affects the EEOC's right to process any pending or future charges that may be filed against Defendant or its owners in accordance with standard EEOC procedures, and to commence civil actions pursuant to Section 706(f) of Title VII on any such charge. Nothing in this Consent Decree shall be construed to limit or reduce Defendant's obligation to fully comply with Title VII of the Civil Rights Act of 1964, as amended; the Equal Pay Act of 1963, as amended; the Age

Discrimination in Employment Act of 1967, as amended; the Americans with Disabilities Act of 1990; or the regulations promulgated pursuant thereto. Nothing herein shall preclude the EEOC from bringing an action to enforce the provisions of this Consent Decree.

XIV. COSTS AND ATTORNEY FEES

The Commission and Defendant shall each bear their own respective costs and attorneys fees for this action.

The parties hereto and undersigned attorneys of record for the Commission and Defendant in the above-styled action hereby consent to the entry of the foregoing Consent Decree.

Respectfully submitted,

BY CONSENT:

Counsel for Plaintiff:
Robert
Michigan

s/Robert Dawkins, Esq.
Dawkins, Esq.
Regional Attorney
Bar No. P-38289

100
Atlanta,
(404)
Equal Employment Opportunity
Commission Atlanta District Office
Alabama Street, SW
Suite 4R30
Georgia 30303
562-6818
Email: robert.dawkins@eeoc.gov

Louisiana
100
Atlanta,
(404)
s/Pamela Alfred-George
Pamela Alfred-George
Trial Attorney
Bar No.16784
Equal Employment Opportunity
Commission Atlanta District Office
Alabama Street, SW
Suite 4R30
Georgia 30303
562-6817
Email: pamela.alfred-eorge@eeoc.gov

Counsel for Plaintiff-Intervenor:
Georgia
284
Marietta,
(404)
Email:
s/Stephen M. Katz, Esq.
Stephen M. Katz, Esq.
Bar No. 409065
Law Offices of Stephen M. Katz
Village Parkway, N.E.
Georgia 30067
848-9658
smkatz@smk-law.com

Counsel for Defendant:

Joseph
Georgia

1500
Atlanta,
(404)

s/

Joseph P. Shelton, Esq.

P. Shelton, Esq.

Bar No. 767667

Fisher & Phillips

Resurgens Plaza

Georgia 30303

240-4259

Email: jshelton@laborlawyers.com

APPROVED, DONE, and SIGNED this 21st day of February, 2007.

s/ CLARENCE COOPER

District
U.S.
Northern

Judge
District Court of Georgia
District of Georgia, Atlanta Division

NOTICE

1. This notice to all employees of RaceTrac Petroleum, Inc (hereinafter “RaceTrac”) is being posted as part of the remedy agreed to between RaceTrac and the Equal Employment Opportunity Commission in a consent decree filed in the United States Federal District Court, Atlanta, Georgia (Case No. 1:06-CV-0761).
2. Federal Law requires, in general, that there be no discrimination against any employee or applicant for employment because of the person's race, color, religion, sex, pregnant condition, national origin, disability or age with respect to hiring, firing, compensation or other terms, conditions or privileges of employment.
3. RaceTrac supports and will comply with such Federal Law in all respects and will not take any action against employees because of their religion, religious beliefs and/or religious practices or because they have exercised their rights under the law.
4. RaceTrac has taken and will continue to take such remedial action as is required by the consent order entered by the United States District Court.

- Signed this _____ day of _____, 2007.

Novem ber 2008