

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
CIVIL ACTION NUMBER: 7:06-CV-83

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	<u>CONSENT DECREE</u>
)	
NATIVE ANGELS HOMECARE)	
AGENCY, INC.,)	
)	
Defendant.)	
_____)	

The Equal Employment Opportunity Commission (the “Commission”) instituted this action pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The Commission’s complaint alleged that Defendant Native Angels Homecare Agency, Inc. violated Title VII of the Civil Rights Act of 1964, as amended, when it required Dorene Sampson to attend a prayer circle and when it fired her because she refused to attend the prayer circle, and in retaliation for her opposition to attending it. Defendant Native Angels Homecare Agency, Inc. (“Defendant”) has denied, and continues to deny, the allegations.

The Commission and the Defendant hereby stipulate to jurisdiction of the Court over the parties and agree that the subject matter of this action is properly before the Court. The parties have advised this Court that they desire to resolve the allegations in the Complaint without the burden, expense, and delay of further litigation. It is understood and agreed that this

settlement is the compromise of disputed claims (which Defendant has denied above) and is not an admission of liability or wrongdoing by Defendant.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the parties and the subject matter of this action; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent Decree; and (3) this Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 20 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against any person on the basis of religion or any other protected category within the meaning of Title VII.

2. Defendant shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964 or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under that statute.

3. Except as set forth in Paragraph 4 below, Defendant shall not require any employee, as a condition of employment, to attend any religion-based activity, or to attend any meeting, assembly or other activity where prayer is being conducted. Further, Defendant shall not take any action against an employee who refuses to attend such activity nor shall Defendant require any employee who chooses not to attend such activity to leave Defendant's premises.

4. Paragraph 3 above shall not apply to any employee whose primary job duty is to perform a religious or spiritual function, such as a Hospice Chaplain, or to any hospice function required by 42 CFR Part 418. Nothing in this Consent Decree, however, shall be construed to relieve Defendant of its obligation under Title VII to reasonably accommodate the sincerely held

religious beliefs of its employees.

5. Defendant shall pay Dorene Sampson the gross sum of \$25,000.00 in settlement of the claims raised in this action. \$3,284.00 of the settlement amount (plus interest for the period from March 22, 2005 through the date of this Consent Decree) shall be for back wages, shall be subject to withholdings, and shall be subject to the issuance of a Form W-2. The remainder of the settlement amount shall be for other damages and shall be subject to the issuance of a Form 1099. Defendant shall make payment by issuing a check payable to Dorene Sampson. Payment shall be made within fifteen (15) days after the Court approves this Consent Decree, and Defendant shall mail the check to Dorene Sampson at an address provided by the Commission. Within ten (10) days after the check has been sent, Defendant shall mail to Lynette A. Barnes, Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202, a copy of the check and proof of its delivery to Dorene Sampson.

6. Within ten (10) days of the entry of this decree by the Court, Defendant shall eliminate from the employment records of Dorene Sampson any and all documents, entries, or references of any kind relating to the facts and circumstances which led to the filing of EEOC Charge Number 140-2005-04191 and the related events that occurred thereafter. Within fifteen (15) days of the entry of this decree by the Court, Defendant shall report compliance with this provision to the EEOC.

7. Defendant agrees to provide Dorene Sampson with a letter of reference, a copy of which is attached as Exhibit A, within ten (10) days of the entry of this decree by the Court. In addition, if Defendant receives any inquiries regarding Dorene Sampson's employment, Defendant shall provide the document attached as Exhibit A in lieu of a verbal response.

8. Within sixty (60) days of the entry of this decree by the Court, Defendant shall adopt, implement, and distribute a formal, written anti-discrimination policy, which shall include but not be limited to the following: an explanation of the requirements of the federal equal employment opportunity laws, including Title VII and its prohibition against discrimination based on religion and its requirement that employers provide reasonable religious accommodations to employees; procedures for reporting discrimination; and a procedure for the thorough and immediate investigation of employee complaints of discrimination. Defendant shall distribute to each current employee a copy of the policy within the aforementioned 60 day time period. Within seventy (70) days of the entry of this decree, Defendant shall report compliance to the Commission. During the term of this Decree, Defendant shall distribute the policy to all new employees and review it with them at the time of hire.

9. During the term of this decree, Defendant shall post a copy of the policy described in paragraph 8, *supra*, in all of their facilities in a place where it is visible to employees. If the policy becomes defaced or unreadable, Defendant shall replace it by posting another copy of the policy. Within seventy (70) days after the Consent Decree is entered, Defendant will post the policy and notify the EEOC that it has been posted.

10. During the term of this Decree, Defendant shall provide an annual training program to all of its managers, supervisors and employees. Each training program shall include an explanation of the requirements of Title VII of the Civil Rights Act of 1964, and its prohibition against religious discrimination and retaliation in the workplace. Each training program shall also include an explanation of Defendant's policy referenced in paragraph 8 above, and an explanation of the rights and responsibilities of employees and managers under the policy.

The first training program shall be completed within ninety (90) days after entry of the decree by the Court. Each subsequent training program shall be conducted at approximately one-year intervals. At least fifteen (15) days prior to each program, Defendant shall provide the Commission with an agenda for the training program. Within ten (10) days after completion of each training program, Defendant shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all employees in attendance.

11. Beginning within thirty (30) days after the entry of this Decree by the Court, and continuing for a period of one year, Defendant shall conspicuously post the attached Employee Notice, marked Exhibit B, hereby made a part of this Decree, in a place where it is visible to employees at its facility. If the Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice. Within forty-five (45) days after entry of this Decree, Defendant shall notify the Commission that the Notice has been posted pursuant to this provision. The Notice shall be posted for a period of one (1) year.

12. During the term of this Consent Decree, Defendant shall provide the Commission with reports at six (6) month intervals, with the first being due four (4) months after approval by the Court of this Decree. The reports will include the following information:

- A. The identities of all individuals who have made a complaint about religious discrimination under the policy described in paragraph 8 above, including by way of identification each person's name, address, telephone number, position, and social security number;
- B. the identities of all individuals who have opposed any practice made unlawful under Title VII of the Civil Rights Act of 1964, or who have filed a charge, given testimony or assistance, or participated in any investigation, proceeding or hearing under the foregoing statute, including by way of identification each person's name, address, telephone number, position, and social security number;
- C. for each individual identified in 12.A and 12B. above, explain whether the individual's employment status has changed in any respect (for example, including but not limited to, termination, firing, demotion, promotion, or

- to part-time from full-time); and
- D. for each individual whose employment status has changed as identified in 12.C. above, a detailed statement explaining why the individual's employment status has changed.

In the event there is no activity to report pursuant to this paragraph, Defendant shall send EEOC a "negative" report indicating no activity.

13. The Commission may review compliance with this Decree. As part of such review, the Commission may, upon 48 hours notice, inspect Defendant's facility, interview employees and examine and copy documents. No advance notice shall be required for the Commission to inspect Defendant's facility solely to ensure compliance with paragraphs 9 and/or 11.

14. If anytime during the term of this Decree, the Commission believes that Defendant is in violation of the Decree, the Commission shall give notice of the alleged violation to Defendant. Defendant shall have fifteen (15) days in which to investigate and respond to the allegations. Thereafter, the parties then shall have a period of fifteen (15) days or such additional period as may be agreed upon by them, in which to engage in negotiation regarding such allegations before the Commission exercises any remedy provided by law.

15. The term of this Decree shall be for three (3) years from its entry by the Court.

16. All reports or other documents sent to the Commission by Defendant pursuant to this Decree shall be sent to: Lynette A. Barnes, Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202.

17. Each party shall bear its own costs and attorney's fees.

18. The Commission will file a Stipulation of Dismissal with Prejudice upon entry of this Decree dismissing the underlying action. The Court shall have jurisdiction to monitor the

Consent Decree, enter any necessary orders, and over any action to enforce the Consent Decree.

19. Dorene Sampson shall execute a release in the form attached hereto as Exhibit C.

20. This Court shall retain jurisdiction of this cause for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

Date

Judge, U.S. District Court
District of North Carolina

The parties jointly request that the Court approve and enter the Consent Decree:

Ronald S. Cooper
General Counsel

James L. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

/s/ Lynette A. Barnes
Lynette A. Barnes (N.C. Bar No. 19732)
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Lynette.Barnes@eeoc.gov

/s/ Tina Burnside
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Raleigh, NC 27602
Telephone: (919) 828-0564
Facsimile: (919) 834-4564
pattibartis@parkerpoe.com
Attorney for Defendant

[Native Angel's letterhead]

[Date]

TO WHOM IT MAY CONCERN:

Provided herein is information concerning our former employee, Doreen Sampson.

Ms. Sampson was employed by Native Angels Homecare Agency, Inc., from February 1, 2005 to March 22, 2005. During her tenure with us, Ms. Sampson held the position of Registered Nurse. Her ending salary was \$19.00 per hour, plus benefits.

Sincerely,

Lesa Jacobs, Clinical Care Coordinator
Native Angels Homecare Agency, Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
CIVIL ACTION NUMBER: 7:06-CV-83

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	<u>NOTICE</u>
)	
NATIVE ANGELS HOMECARE)	
AGENCY, INC.,)	
)	
Defendant.)	
_____)	

This Notice is posted pursuant to a Consent Decree between the U.S. Equal Employment Opportunity Commission and Native Angels Homecare Agency, Inc. ("Native Angels"), in a case of discrimination based on religion. Native Angels has denied and continues to deny these claims but has agreed to this settlement to avoid further litigation. As part of the settlement, Native Angels agreed to make a certain payment to Ms. Sampson and take other action set out in a Consent Decree resolving the matter.

Federal law requires that employers not discriminate against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin, age (40 or older) or disability. Title VII specifically prohibits discrimination based on religion.

Native Angels will comply with such federal law in all respects. Furthermore, Native Angels will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or given testimony, assistance or participation in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact their local U. S. Equal Employment Opportunity Commission field office for the purpose of filing a charge of employment discrimination. To locate the nearest field office, contact:

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, DC 20507
TEL: 1-800-669-4000
TTY: 1-800-669-6820

DO NOT REMOVE THIS NOTICE UNTIL: _____, 2008

RELEASE

In consideration of the payment to me by Native Angels Homecare Agency, Inc. (the "Company"), of a total amount of \$25,000.00 and in consideration of the Consent Decree agreed to by the Equal Employment Opportunity Commission and the Company in Civil Action No. 7:06-cv-83, of which this Release is a part, I, Dorene Sampson, hereby fully and forever release and discharge the Company, its successors and assigns, including its present and former directors, officers, and employees and agents, from any and all claims or obligations which were raised in Civil Action No. 7:06-cv-83.

I have read this release and I execute it voluntarily, without coercion or threat of reprisal.

IN WITNESS WHEREOF, this release is signed and executed by me on this ____ day of _____ 2007.

Dorene Sampson

Wake County
North Carolina

I certify that Dorene Sampson personally appeared before me on this day, and I have seen satisfactory evidence of the principal's identity by a current state or federal identification with the principal's photograph in the form of _____ acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Date: _____

Official Signature of Notary

_____, Notary Public

My Commission expires: _____