

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

-vs-

Case No. 2:04-cv-484-FtM-29DNF

RT TAMPA FRANCHISE, L.P.
a/k/a RT TAMPA FRANCHISE, LTD.
d/b/a RUBY TUESDAY,

Defendant.

AMANDA ROENIGK,

Intervenor.

_____ /

CONSENT DECREE

1. This Consent Decree is entered into by and between Plaintiff, the United States Equal Employment Opportunity Commission (hereinafter referred to as the “Commission” or “EEOC”), Amanda Roenigk (hereinafter referred to as “Plaintiff-Intervenor” or “Ms. Roenigk”), and RT Tampa Franchise, L.P. (hereinafter referred to as “Defendant”). The Commission, Plaintiff-Intervenor, and Defendant are collectively referred to as the “Parties.”
2. The Commission filed this action on August 12, 2004 under Title VII of the Civil Rights Act of 1964 (“Title VII”) and Title I of the Civil Rights Act of 1991. The EEOC Complaint alleged unlawful employment practices on the basis of sex (female) and retaliation, asserting that Ms. Roenigk was adversely affected by such practices. The EEOC Complaint also alleged that the terms and conditions of Ms. Roenigk’s employment were rendered so

intolerable that she was forced to resign.

3. The Court granted Ms. Roenigk's Motion to Intervene in this action. Like the EEOC, the Plaintiff-Intervenor alleged that Defendant violated Title VII and Title I. Ms. Roenigk's Complaint also alleged that Defendant violated the Florida Civil Rights Act of 1992, Fla. Stat. §§760.01, et seq. ("FCRA"), and also asserted certain common law claims.
4. Defendant filed Answers to EEOC's and Plaintiff-Intervenor's Complaints wherein Defendant denied any allegations of unlawful conduct and asserted several affirmative defenses.
5. In the interest of resolving this matter, to avoid the costs of litigation, and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by the entry of this Decree. This Decree is final and binding upon the Parties, their successors and assigns.
6. The Parties agree that execution of this Decree in no way constitutes an admission of liability on the part of the Defendant.
7. The Parties agree that this Decree resolves all the claims against Defendant alleged in EEOC charge number 150 03 01840 and civil action number 2:04-CV-44-FtM-29DNF. The Parties further agree that this Decree does not resolve any Charges of Discrimination that may be pending with the EEOC other than the charges referred to in this paragraph.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings filed by the parties, it is ORDERED, ADJUDGED AND DECREED THAT:

I. JURISDICTION OVER DECREE

8. This Court has jurisdiction of the subject matter of this action and over the Parties for the purposes of entering and enforcing this Decree.
9. No party shall contest the jurisdiction of this Federal Court to enforce this Decree and its terms or the right of the EEOC to bring an enforcement suit upon alleged breach of any terms of this Decree.

II. INJUNCTIVE RELIEF

- 10 The Defendant, its successors and assigns are enjoined from engaging in any conduct which violates Title VII by adversely affecting the terms and conditions of any individual's employment because of his or her sex.
- 11 The Defendant, its successors and assigns are enjoined from engaging in any conduct which violates Title VII by adversely affecting the terms and conditions of any individual's employment because such individual has (i) opposed any of Defendant's practices which the individual reasonably believed, in good faith, were unlawful under Title VII, (ii) filed a charge of discrimination with the EEOC alleging a violation of Title VII, (iii) cooperated with the EEOC in the investigation and/or prosecution of any charge of discrimination under Title VII, or (iv) has offered testimony or information in the above-styled litigation which resulted in this Consent Decree.

III. DEVELOPMENT OF POLICES AND TRAINING

12. Ruby Tuesday, Inc. (hereafter, “RTI”), which owns the Defendant through subsidiary corporations,¹ has adopted a “Respect and Responsibility” policy. This policy prohibits sexual harassment at work, and urges employees to speak freely about sexual harassment without any fear of retaliation. A copy of this policy is attached hereto as Exhibit A to this Consent Decree (“the Respect and Responsibility Policy”). Defendant agrees to distribute the RTI Respect and Responsibility Policy to all its current employees within sixty (60) days of the entry of this Decree. Defendant further agrees that during the term of this Decree, all new employees will be provided a copy of the RTI Respect and Responsibility Policy within one (1) week of employment.
13. In order to further ensure the effective implementation of Defendant’s anti-discrimination policies, Defendant will conduct four (4) hour training sessions for all of its Directors of People, Standards & Results (“DPSRs”)(DPSRs supervise groups of restaurants), and all of its Restaurant General Managers, Managers, and Managers-in-Training (the “Four Hour Training Sessions”). The training sessions will focus on the prevention of sexual harassment in the workplace, with specific emphasis on recognizing sexual harassment and acts that constitute unlawful retaliation, and the proper procedure to be followed if management personnel become aware of sexual harassment or retaliation in the workplace and/or if they receive a complaint of such harassment or retaliation for complaining about sexual

¹RT Tampa Franchise, L.P. is a Ruby Tuesday franchise consisting, at the present time, of twenty-five (25) restaurants. The Defendant, a limited partnership, has two partners, which are RT Tampa, Inc., a Georgia corporation serving as the General Partner, and RT Tampa Equity, LLC, a Delaware limited liability company. Both RT Tampa, Inc., and RT Tampa Equity, LLC, are owned by Ruby Tuesday, Inc.

harassment. Thereafter, on at least an annual basis, and as part of its regularly scheduled training sessions with its DPSRs, General Managers, Managers, and Managers-in-Training, Defendant will review its policies regarding sexual harassment and retaliation, including but not limited to the RTI Respect and Responsibility Policy, with specific emphasis on recognizing sexual harassment and acts that constitute unlawful retaliation and the proper procedure to be followed if management personnel become aware of sexual harassment or retaliation in the workplace and/or if they receive a complaint of such harassment or retaliation for complaining about sexual harassment.

14. Defendant agrees to provide the EEOC with at least two (2) weeks notice before conducting the Four Hour Training Sessions. This notice will indicate the date(s) and location(s) of the Four Hour Training Sessions, briefly describe any training materials to be used at the Sessions, and will list the names and job titles of the DPSRs, General Managers, Managers, and Managers-in-Training scheduled to be in attendance at the training. The training will be conducted by Ms. Leslie Logan, an attorney who is a member of the RTI Legal Department, or by another attorney with the RTI Legal Department. Additionally, Defendant agrees that the EEOC may, at the EEOC's discretion, send one or more representatives to attend each of the Four Hour Training Sessions; provided, however, that if the EEOC desires to send one or more representatives to a Four Hour Training Session, it will give Defendant at least two days advance notice of the Session(s) to be monitored, and the name of the EEOC representative(s) who will be present.
15. Defendant agrees that the Four Hour Training Sessions described herein shall be conducted within sixty (60) days of the entry of this Decree. The subsequent management training will

take place on an annual basis during the term of this Decree. Defendant further agrees that during the term of this Decree, all persons placed by Defendant as DPSRs, General Managers, Managers or Managers-in-Training, who are not being assigned to such jobs from another RTI management position, shall be given training, as part of Defendant's management orientation program, relating to sexual harassment and unlawful retaliation under Title VII, within thirty (30) days of placement in their management positions.

IV. POSTING

16. As part of its chain of twenty-five (25) restaurants, Defendant owns and operates five restaurants at locations in the vicinity of Ft. Myers, Naples, and Sebring, Florida (the "Ft. Myers/Naples/Sebring Restaurants") (the Plaintiff-Intervenor worked at a restaurant in the Edison Mall, in Ft. Myers, which is now closed). The Ft. Myers/Naples/Sebring Restaurants have the following addresses: (1) 1982 N. Tamiami Trail, Naples, Florida 34102 (the "Coastland Center" Ruby Tuesday); (2) 8777 Tamiami Trail North, Naples, Florida 34108 (the "Pelican Bay" Ruby Tuesday); (3) 9001 Park Royal Drive, Ft. Myers, Florida 33908; (4) 2514 Santa Barbara Boulevard, Cape Coral, Florida 33914; and (5) 4228 Sebring Parkway, Sebring, Florida 33870. Within ten (10) days of the entry of this Decree, Defendant shall post laminated 11" x 17" size copies of the notice attached hereto as Exhibit B (the "Notices") at each of the five Ft. Myers/Naples/Sebring Restaurants. The Notices shall be posted on the bulletin boards used for government posters at the restaurants ("Bulletin Boards"); all of these Bulletin Boards are placed in conspicuous locations for employee viewing, as required by law. The Notices shall be maintained by Defendant on the Ft. Myers/Naples/Sebring Restaurants' Bulletin Boards for the term of this Decree.

V. REPORTING AND MONITORING

17. Following the completion of the Four Hour Training Sessions, the Defendant agrees promptly to provide the EEOC with a letter (the “Training Report”) confirming that the training took place as agreed in this Decree, unless one of more EEOC representatives attend all of such Sessions; in such case, the Training Report will not be required.
18. Defendant will retain all employment records relating in any way to any Complaint (defined below) involving employees at the Ft. Myers/Naples/Sebring Restaurants, and/or to any investigation of sexual harassment or retaliation for complaining of sexual harassment involving employees at the Ft. Myers/Naples/Sebring Restaurants. As used in this Section V, “Complaint” shall mean (i) complaints or reports made via the RTI employee hotline, or the RTI internet reporting tool (ii) complaints made during direct calls or written communications to RTI Directors of Human Resources, and (iii) complaints which are identified in connection with the preparation of Annual Reports to the EEOC.
19. For the term of this Decree, Defendant will provide the EEOC annually with a report which identifies all Complaints of sexual harassment or retaliation for opposing sexual harassment involving employees at the Ft. Myers/Naples/Sebring Restaurants, which indicates the nature of the alleged harassment or retaliation, and the outcome of the Complaint (the “Annual Report”). In addition, to ensure that the Annual Report’s information regarding Complaints is as accurate and complete as possible, Defendant shall contact all of the General Managers and Managers working at the Ft. Myers/Naples/Sebring Restaurants, as well as the Regional Partner(s) and DPSR(s) with responsibility for managing these restaurants, and ask them to identify all sexual harassment complaints and all complaints of retaliation for opposing

sexual harassment made during the prior year, and all such complaints identified during this process shall also be included in the Annual Report for the year. Copies of any Complaints made by employees in writing will be attached to the Annual Report for the year. Defendant will provide the EEOC with an Annual Report regardless of whether or not Defendant has identified any such Complaints of sexual harassment or retaliation during the applicable reporting period. The first Annual Report shall be submitted on or about the first anniversary of the Decree; the second Annual Report shall be submitted on or about the second anniversary of the Decree; and the third and final Annual Report shall be submitted on or about the third anniversary of the Decree.

20. As part of each Annual Report, Defendant will certify to the EEOC that it is in compliance with all aspects of this Decree, and that it has been in compliance with this Decree throughout the prior one year period covered by the Annual Report.
21. Defendant has appointed Ms. Leslie Logan as having responsibility for coordinating its compliance with this Consent Decree and for providing reports to the EEOC; however, Defendant retains the right to shift compliance responsibility for this Decree to another individual. Unless indicated otherwise hereinafter, all Annual Reports, other reports and documents required to be delivered by the Defendant to the EEOC pursuant to this Consent Decree shall be mailed or sent by overnight courier to: United States Equal Employment Opportunity Commission, Attention: Office of the Regional Attorney, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

VI. EXPUNGEMENT AND LETTER OF REFERENCE

22. There is a Counseling Letter in Ms. Roenigk's RT Tampa personnel file which refers to certain events relating to her separation from Defendant; Defendant agrees to remove this Counseling Letter from her personnel file within ten (10) business days of the date of this Decree. Any other documents in Ms. Roenigk's RT Tampa personnel file, referencing her termination in any way, shall also be expunged within ten (10) business days of the date of this Decree. The Defendant further agrees to give Ms. Roenigk a letter of reference, signed by Gary Gallagher, Director of Development, on Defendant's letterhead, addressed "To Whom It May Concern," which will read as follows: "Amanda Roenigk was employed as a full-time Server and Bartender at the Ruby Tuesday restaurant at the Edison Square Mall, 4125 Cleveland Ave., Ft. Myers, FL 33901, between January 10, 1997 and May 31, 2002. We wish her well in her future endeavors." At the bottom of the letter, after Mr. Gallagher's signature block, Defendant will also insert the following language in ALL CAPS: "It is Ruby Tuesday's policy not to provide any information regarding its employees and former employees except the information provided above. Any further information regarding employment should be obtained from the named former employee." This letter will be forwarded to Ms. Roenigk's attorneys within ten (10) business days of the entry of this Decree, and a copy of the letter will be sent to the EEOC, forwarded to the attention of Ms. Cheryl A. Cooper, Trial Attorney, U.S. Equal Employment Opportunity Commission, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

VII. MONETARY RELIEF

23. Defendant shall pay to Ms. Roenigk, or at her direction, to her counsel, the sum of one hundred and fifty thousand dollars (\$150,000.00). Payment shall be made by checks issued by Defendant or its insurance carrier (the "Settlement Checks"). Defendant agrees to issue the Settlement Checks, either on its own, or through its insurance carriers, within ten (10) business days from the Court's execution of this Decree, by certified or overnight mail, and forward the Settlement Checks to the Law Offices of Webb, Scarmozzino & Gunter, P.A. at 1617 Hendry Street, Third Floor, Fort Myers, Florida 33901. Copies of the Settlement Checks shall be forwarded to the attention of Cheryl A. Cooper, Trial Attorney, U.S. Equal Employment Opportunity Commission, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.
24. If Defendant fails to tender the above-mentioned payment as set forth in paragraph 22, then Defendant shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. Section 6621(b) until the same is paid, and bear any additional costs incurred by the EEOC caused by Defendant's non-compliance.

VIII. ENFORCEMENT

25. The Commission shall have independent authority to seek judicial enforcement of each aspect, term, provision and attachment of this Decree. However, the EEOC shall not seek such judicial enforcement unless it has first: (1) given Defendant a written notice of its intention to seek judicial enforcement, which notice shall specify the alleged breach for which judicial enforcement shall be sought; and (2) provided Defendant at least fifteen (15) days to cure any alleged breach of any terms, except the provisions set forth in paragraphs

23 and 24 relating to monetary relief, for which Court enforcement may be sought immediately. The Commission will take whatever measures it deems appropriate to effectuate the enforcement of the terms of this Decree.

IX. COSTS

26. Except to the extent agreed otherwise, each Party shall bear its own costs and attorneys' fees associated with this litigation.

X. DURATION OF CONSENT DECREE; CASE CLOSURE

27. The duration of this Decree shall be three (3) years from the date of entry of the Decree. The parties do not dispute that the Court may, by separate Order, instruct the Clerk to enter judgment adopting the Consent Decree, and administratively closing the file. Ms. Roenigk and the Defendant may subsequently file a separate joint motion and stipulation of dismissal of her claims as an Intervenor, with prejudice.

SO ORDERED ADJUDGED AND DECREED, this ____ day of August 2005.

JOHN E. STEELE
UNITED STATES DISTRICT JUDGE

AGREED TO:
FOR THE PLAINTIFF,
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

by: /s/Delner Franklin-Thomas
Delner Franklin-Thomas, Esquire
Regional Attorney
U.S. Equal Employment Opportunity Commission
Miami District Office

Date: 8/2/05

One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131

AGREED TO:
FOR THE PLAINTIFF-INTERVENOR
AMANDA ROENIGK

by: /s/Dennis L. Webb
Dennis L. Webb, Esquire
Jason S. Gunter, Esquire
Webb, Scarmozzino & Gunter, P.A.
1617 Hendry Street, Third Floor
Fort Myers, Florida 33901

Date: 8/1/05

AGREED TO:
FOR THE DEFENDANT
RT TAMPA FRANCHISE, L.P.

by: /s/Lori Y. Baggett
Lori Y. Baggett, Esquire
Cathleen G. Bell, Esq.
Carlton Fields, P.A.
Corporate Center Three at International Plaza
4221 W. Boy Scout Boulevard
Tampa, FL 33607

Date: 8/2/05

by: /s/Geralyn M. Passaro
Geralyn M. Passaro, Esquire
Stephens, Lynn, Klein, La Cava, Hoffman & Puya, P.A.
Las Olas Place, Suite 800
301 East Las Olas Boulevard
Fort Lauderdale, FL 33301

Date: 8/2/05

EXHIBIT A

RESPECT AND RESPONSIBILITY POLICY

Harassment of any type or any nature, whether based on race, gender, sex, age, religious affiliation, disability, national origin, or any other protected category, is wrong, unfair, and will not be tolerated at Ruby Tuesday, Inc. The success of our great Company is based on building great teams. The foundation of great teams is treating people as they want to be treated and showing true respect for all individuals. **Anyone who engages in harassing conduct will be subject to discipline, up to and including termination.**

Company policy prohibits unwelcome advances, propositions, requests for favors, verbal abuse of any nature, offensive jokes, flirtations, explicit or degrading verbal comments about another individual or his/her physical appearance, the display of sexually suggestive pictures or objects, any offensive or abusive physical conduct, sexually or racially explicit language or jokes, unwelcome touches or other unwelcome physical contact, whether on or off Company property, whether on or off duty, or in conjunction with work in any way. Basing employment decisions, such as scheduling, raises or promotions, on a Team Member's agreement or refusal to be subject to or tolerate offensive conduct is strictly prohibited. A Team Member's agreement or refusal to submit to or tolerate this type of conduct cannot be used as a basis for an employment decision. Any type of conduct that interferes with a Team Member's work performance or creates an intimidating, hostile or offensive work environment is a violation of Company policy.

The Company does not permit Management/Team Member dating. Dating or other personal involvement of a romantic nature between a Manager and a Team Member could lead to favoritism (or the appearance of favoritism) and morale issues. If such a situation arises, it is the responsibility of the parties involved to notify their supervisors so that the two parties no longer work in the same unit.

Each of us plays a critical role in the Company's success and is expected to project a positive and professional image. Professionalism in appearance and conduct is crucial to motivating others and promotes a positive and fair work environment.

If you see a violation of Company policy, you must promptly inform us. Communication is the key. Talk to your Manager, General Manager, Director — People, Standards, and Results, Regional Partner, Director of Human Resources, or call the Team Member Hotline, whichever is most comfortable for you. We want and need you to **speak freely without fear of retaliation, or adverse consequences for expressing your concerns.**

Team Member Hotline: 1-800-633-8483

Revised 10/09/03

"NOTHING CONTAINED IN THIS POLICY IS INTENDED TO CREATE A CONTRACT FOR EMPLOYMENT. ALL EMPLOYEES OF RUBY TUESDAY, INC. ARE EMPLOYEES AT-WILL."

EXHIBIT B

NOTICE TO ALL EMPLOYEES POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND RT TAMPA FRANCHISE, L.P.

This notice is being posted pursuant to a Consent Decree entered by the Court in EEOC et al. vs. RT Tampa Franchise, L.P. a/k/a RT Tampa Franchise Ltd. d/b/a Ruby Tuesday, Civil Action No. 2:04-cv-484-FtM-29DNF. RT Tampa Franchise, L.P. has adopted a policy that prohibits discrimination against employees based on sex in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Title VII protects individuals from employment discrimination because of their race, religion, color, national origin, or sex. Title VII also protects individuals from retaliation for having complained of an unlawful employment practice. RT Tampa Franchise, L.P. will not condone employment discrimination of any kind as set forth in federal anti-discrimination laws, including, but not limited to, sexual harassment and retaliation.

RT Tampa Franchise, L.P. assures its employees that it supports Title VII and will not take any action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with the EEOC. Appropriate corrective action, up to and including termination, based upon the circumstances involved, shall be taken against any employee (including management personnel) found to have violated RT Tampa Franchise, L.P.'s policy prohibiting discrimination.

This notice shall remain posted for three (3) years from the date the Decree is entered. Employees or applicants for employment who have questions about their rights under Title VII or any other federal anti-discrimination law may telephone Leslie Logan, in Maryville, Tenn. at (865) 379-5705, or the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000.

Signed this ____ day of _____, 2005.

Scarlett May, Vice President and Secretary, RT Tampa, Inc.
on behalf of RT Tampa Franchise, L.P., a limited partnership

DO NOT REMOVE BEFORE _____, 2008