

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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AUSTIN DIVISION
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DEPUTY

EQUAL EMPLOYMENT OPPORTUNITY	§	
COMMISSION,	§	
Plaintiff,	§	
and	§	
	§	
JOSE TOSCANO,	§	
Plaintiff in Intervention,	§	
	§	
v.	§	Civil Action No. A98-CA-515-JN
	§	
WASTE MANAGEMENT OF TEXAS, INC.,	§	
d/b/a Longhorn Disposal,	§	
Defendants.	§	

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), and Defendant, Waste Management of Texas, Inc., d/b/a Longhorn Disposal, ("Longhorn Disposal"). This Consent Decree resolves the allegations raised by the EEOC in the above-referenced Civil Action No. A98CA515JN. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct alleged unlawful employment practices on the basis of national origin, and to provide appropriate relief to Jose D. Toscano, who the EEOC maintains was adversely affected by these alleged practices. The Commission alleges that Longhorn Disposal allowed Jose D. Toscano ("Toscano") to be subjected to an ethnically hostile work environment based on Toscano's national origin, Mexican, that the working conditions were so intolerable that Toscano was forced to resign, and that Longhorn utilized an impermissible "English only" language policy. Longhorn Disposal denies the allegations brought by the EEOC as alleged in the Complaint and any Amended Complaint filed in this Civil Action.

The EEOC and Longhorn Disposal wish to settle this action, without the risks, uncertainties and expenses of continued litigation, under the terms in this Decree. Neither Longhorn Disposal's consent to the entry of this Decree, nor any of the terms set forth in it, shall constitute or be construed as Longhorn Disposal's admission of any Title VII violation.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the EEOC's filing of this action have been met. The parties stipulate to the Court's jurisdiction and waive a hearing and entry of findings of fact and conclusions of law.

2. This Decree is entered in full and complete settlement of all claims contained in this lawsuit. EEOC expressly reserves its right to process and litigate any other charges (other than EEOC Charge No. 360 95 0930 filed by Toscano against Longhorn Disposal) which may now be pending or may in the future be filed against Defendant Longhorn Disposal.

3. The duration of this Decree shall be two years from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Decree and may enter further orders or modifications as may be appropriate.

4. Defendant Longhorn Disposal agrees not to engage in national origin harassment and/or create or contribute to a hostile environment of national origin harassment. Defendant Longhorn Disposal agrees to discontinue the use of its Radio Usage Policy, dated June 23, 1994, containing the alleged impermissible English-only language. Defendant Longhorn Disposal is not prohibited from implementing a permissible English-only policy in the future.

5. Defendant Longhorn Disposal agrees not to retaliate in any manner whatsoever,

against Jose D. Toscano, for opposing any employment practice made unlawful by Title VII, or for filing a discrimination charge, giving testimony or assistance, or participating in any manner in any investigation, proceeding, hearing or action under Title VII.

6. Longhorn Disposal will not be deemed to have violated paragraphs 4 and 5, unless this Court enters a final, non-appealable judgment, finding a violation.

7. Within 180 days of the date of entry of this Decree, an attorney from Haynes and Boone, L.L.P. shall provide EEO training to Longhorn Disposal's supervisory/managerial employees. The training may take place in separate programs and each supervisory/managerial employee will participate in the training for a total of 4 hours. The training shall: (a) explain that national origin and other Title VII protected-status harassment is unlawful; (b) explain the permissible boundaries of an English-only rule; (c) instruct what conduct may create or contribute to a hostile work environment; and (d) explain the damaging effects of harassment to victims, their families, their co-workers, and the workplace environment. The Commission will receive a copy of the training presentation outline before the training session occurs. Within 20 days after the EEO training has been completed, Longhorn Disposal shall provide to the EEOC a written report identifying each individual who attended this training and the date(s).

8. Defendant Longhorn Disposal agrees to post a notice, for at least the duration of this Decree, of its intent to comply with Title VII. This notice is set forth in Exhibit "A," which is attached to this Decree. Longhorn Disposal agrees to post a copy of Exhibit "A" in a conspicuous place at Longhorn Disposal's facility in Austin, Texas within ten days after this Decree is filed.

9. Defendant Longhorn Disposal agrees not to disclose the filing of this Complaint or the underlying charge filed by Jose D. Toscano to any prospective employers who may inquire to

Longhorn Disposal's General Manager or Waste Management of Texas, Inc.'s Human Resource Department about Toscano's work history with Defendant Longhorn Disposal, unless Defendant Longhorn Disposal is subpoenaed for the information or otherwise ordered to disclose the information by a Court of competent jurisdiction. This provision shall survive the expiration of the Decree.

10. Defendant Longhorn Disposal, in settlement of this dispute, shall pay to Jose D. Toscano, the amount of \$85,000.00 (Eighty-Five Thousand Dollars and No Cents). Payment shall be made by Longhorn Disposal's agent within fourteen(14) days of when this Decree is entered by the Court. Payment shall be by check made payable to Jose Toscano at 2401 Lehigh Drive, Austin, Texas 78723. A copy of the settlement check and any accompanying transmittal documents shall be forwarded to the EEOC to the attention of Robert B. Harwin, Regional Attorney, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

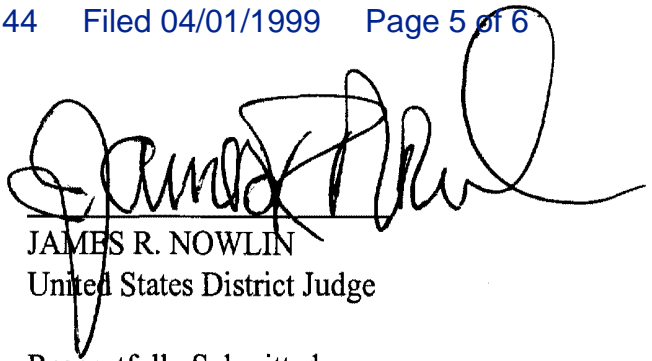
11. Plaintiff EEOC and Defendant Longhorn Disposal agree to sign and execute this Decree contemporaneously with the settlement agreement between Defendant Longhorn Disposal and Plaintiff Intervenor Toscano.

12. The terms of this Decree shall be binding upon the EEOC and Defendant Longhorn Disposal and its agents or assigns, as to the issues resolved herein.

13. The parties to this Decree shall bear their own costs and attorney's fees incurred in this action. The parties agree that pursuant to Section 706(k) of Title VII, 42 U.S.C. §2000e-5(k), there is no "prevailing party" in this action or proceeding.

SO ORDERED.

Signed this 18th day of APRIL 1999.

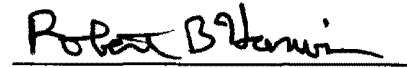


JAMES R. NOWLIN
United States District Judge

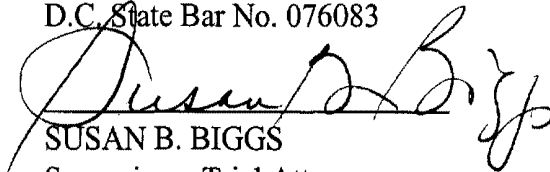
Respectfully Submitted,

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel



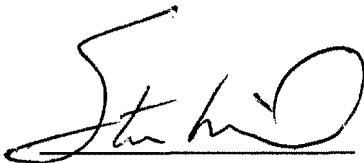
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(210) 281-7636
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ATTORNEYS FOR PLAINTIFF

NOTICE TO ALL EMPLOYEES

WASTE MANAGEMENT OF TEXAS, INC., D/B/A LONGHORN DISPOSAL IS FIRMLY COMMITTED TO TREATING EMPLOYEES AND APPLICANTS FOR EMPLOYMENT ACCORDING TO MERIT WITHOUT REGARD TO THEIR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, OR THEIR HAVING ENGAGED IN ACTIVITY PROTECTED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, INCLUDING RECRUITMENT, RETENTION, PROMOTION, TRANSFER, LAYOFF AND/OR TERMINATION, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT. WASTE MANAGEMENT OF TEXAS, INC. D/B/A LONGHORN DISPOSAL, WILL SPECIFICALLY NOT TOLERATE HARASSMENT OF ITS EMPLOYEES BASED ON RACE, RELIGION, COLOR, NATIONAL ORIGIN OR SEX.

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, OR THAT YOU ARE BEING SUBJECTED TO HARASSMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR SEX, OR BECAUSE OF HAVING ENGAGED IN TITLE VII PROTECTED ACTIVITY, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, THE HUMAN RESOURCES DEPARTMENT, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 5410 FREDERICKSBURG RD, SUITE 200, SAN ANTONIO, TEXAS 78229-3550, (210) 281-7600 OR 1-800-669-4000.

NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

EEOC ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN; THE AGE DISCRIMINATION IN EMPLOYMENT ACT; THE EQUAL PAY ACT; PROHIBITIONS AGAINST DISCRIMINATION AFFECTING INDIVIDUALS WITH DISABILITIES IN THE FEDERAL SECTOR; SECTIONS OF THE CIVIL RIGHTS ACT OF 1991, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT, WHICH PROHIBITS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN THE PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.

EXHIBIT "A"