

1 WILLIAM R. TAMAYO, SBN 084965 (CA)
2 JONATHAN T. PECK, SBN 12303 (VA)
3 MARCIA L. MITCHELL, SBN 18122 (WA)
4 U.S. EEOC
5 San Francisco District Office
6 350 The Embarcadero, Suite 500
7 San Francisco, CA 94105
8 Telephone No. (415) 625-5651
9 Fax No. (415) 625-5657
10 Marcia.Mitchell@eeoc.gov

11 Attorneys for Plaintiff

12 ROBERT L. WENZEL - SBN 97956
13 ATKINSON, ANDELSON, LOYA, RUUD & ROMO
14 A Professional Corporation
15 17871 Park Plaza Drive, Suite 200
16 Cerritos, California 90703-8597
17 Telephone: (562) 653-3200 ~ (714) 826-5480
18 Facsimile: (562) 653-3333
19 RWenzel@aalrr.com

20 Attorney for Defendant

21 UNITED STATES DISTRICT COURT FOR
22 THE EASTERN DISTRICT OF CALIFORNIA

23 U.S. EQUAL EMPLOYMENT
24 OPPORTUNITY COMMISSION,

25 Plaintiff,

26 vs.

27 CARL KARCHER ENTERPRISES, dba
28 CARL'S JR. RESTAURANT,

Defendant

) Case No.: 2:05-CV-01978 FCD PAN

) **CONSENT DECREE**

29 **I. INTRODUCTION**

30 1. Plaintiff, US Equal Employment Opportunity Commission ("Commission" or "EEOC")
31 brought this lawsuit under Title VII of the Civil Rights Act of 1964 and Title I of the
32

1 Civil Rights Act of 1991, to correct alleged unlawful employment practices on the basis
2 of racial harassment and retaliation and to make whole Ms. Michal Galloway (nee Harris)
3 ("Galloway") and other similarly situated employees of the defendant, Carl Karcher
4 Enterprises dba Carl's Jr. Restaurants (hereinafter "CKE" or the "Company"), allegedly
5 aggrieved by the unlawful practices. The Commission alleges that an employee of CKE,
6 James Teteak ("Teteak"), unlawfully subjected Galloway and others to a racially hostile
7 work environment at one of CKE's restaurants. The Commission further alleges that
8 CKE retaliated against Galloway after she complained of such harassment.

9 2. CKE denies these allegations and asserts that no unlawful harassment, discrimination, or
10 retaliation took place at CKE.

11 3. In the interest of resolving this matter and continuing and strengthening CKE's
12 commitment to equal employment opportunity, and as a result of having engaged in
13 comprehensive settlement negotiations, the Commission and CKE (hereinafter referred to
14 as "the Parties") have agreed that this action should be finally resolved by entry of this
15 Consent Decree.
16

17 II.

18 GENERAL PROVISIONS

19 1. This Court has jurisdiction over the subject matter and the parties to this action. This
20 Court will retain jurisdiction over this Decree for all purposes until the expiration of the
21 term of this Consent Decree.

22 2. The entry of this Consent Decree will further the objectives of Title VII and will be in the
23 best interest of the Parties, those for whom the EEOC seeks relief and the public.

24 3. The Court has reviewed the terms of this Consent Decree in light of the pleadings, the
25 record herein and the applicable law and now approves the Consent Decree in its entirety.

26 4. This Consent Decree is final and binding upon the Parties, their successors and assigns.

27 5. This Consent Decree shall not constitute an adjudication and/or finding on the merits of
28 the case. The existence of this Consent Decree shall not in any way constitute an

1 admission by CKE that it has violated Title VII, Title I or any other applicable laws.

2 6. The parties agree that this Consent Decree resolves all claims arising out of EEOC
3 Charge No. 376-2003-00073 and the complaint filed in this action, and constitutes a
4 complete resolution of all claims against CKE of racial harassment by James Teteak
5 and/or retaliation for complaining about the alleged harassment by Teteak that were made
6 or could have been made by the Commission, Galloway and/or any other Eligible
7 Claimants who take under this Consent Decree. This Consent Decree does not, however,
8 resolve any future charges or charges that may be pending with the EEOC other than the
9 charges specifically referenced in this paragraph and those that may be released by
10 Galloway, the EEOC and/or Eligible Claimants pursuant to this Consent Decree.

11 7. This Consent Decree in no way affects EEOC's right to process, in accordance with the
12 EEOC's standard procedures, charges filed by individuals against CKE alleging
13 violations of federal employment discrimination statutes, other than charges filed by
14 Galloway and Eligible Claimants relating to claims against CKE of racial harassment by
15 James Teteak arising during the period February 23, 2001 to October 10, 2002 and/or
16 retaliation for complaining about the alleged harassment by James Teteak. Charges
17 include those pending as of the effective date of this Consent Decree and filed in the
18 future. Processing of charges includes the administrative investigation and conciliation
19 and commencement of civil actions on the basis of such charges.

20
21 8. This Consent Decree comprises the full and exclusive agreement of the parties with
22 respect to the matters discussed herein. No waiver, modification or amendment of any
23 provision of this Consent Decree shall be effective unless made in writing and approved
24 by all the Parties to this Decree, except that any substantive change, modification or
25 amendment of any provision of this Consent Decree shall require approval by the Court.

26 9. The Parties shall bear their own attorneys fees and costs.
27
28

III.

SCOPE OF CONSENT DECREE

1. The duration of the Consent Decree shall be two (2) years from the date of the entry of the Decree, provided that CKE has complied substantially with the terms of this Consent Decree. CKE will be deemed to have complied substantially if the Court has not made any findings or orders during the term of the Consent Decree that CKE has failed to comply with any term of this Consent Decree. During the two-year term of this Consent Decree, this Court shall retain jurisdiction over this matter and the Parties for the purpose of enforcing compliance with the Consent Decree, including issuing such orders as may be required to effectuate its purposes.

IV.

GENERAL INJUNCTIVE PROVISIONS

1. Discriminatory Harassment. Consistent with Section 703 of Title VII, 42 U.S.C. §2000e-2, CKE and its officers, managers (including supervisory employees), successors and assigns, and all those in active concert or participation with them, hereby agree not to: (a) discriminate against persons on the basis of race in the terms and conditions of employment; (b) engage in or be a party to any action, policy or practice that is intended to or is known to them to have the effect of harassing or intimidating any employee on the basis of race; or (c) create, facilitate or permit the existence of a work environment hostile to African-American or other non-White employees. Notwithstanding the above, the Parties agree that the mere fact that a charge of racial discrimination and/or racial harassment has been filed with the EEOC during the term of this Consent Decree does not standing alone prove that CKE has failed to comply with the provisions of this section and/or of the Consent Decree nor does it have any effect on this Consent Decree. The EEOC bears the burden of proving that CKE failed to take all reasonable steps within its power to insure compliance with this Consent Decree in order to establish that

1 CKE is liable of civil contempt for violating the terms of the decree.

2 2. Non-Retaliation. CKE and its officers, managers (including supervisory employees),
3 successors or assigns, and all those in active concert or participation with them, agree not
4 to engage in, implement or permit any action, policy or practice with the purpose of
5 retaliating against any current or former employee of CKE because he or she has in the
6 past, or during the term of this Consent Decree: (a) opposed any practice of harassment or
7 other discriminatory acts on the basis of race or color made unlawful under Title VII; (b)
8 filed a Charge of Discrimination alleging any such practice; (c) testified or participated in
9 any manner in any investigation (including, without limitation, any internal investigation
10 undertaken by CKE), proceeding or hearing in connection with this case; (d) was
11 identified as a possible witness in this action; (e) asserted any rights under this Consent
12 Decree; or (f) sought and/or received any monetary or non-monetary relief in accordance
13 with this Consent Decree. Notwithstanding the above, the Parties agree that the mere fact
14 that a charge of retaliation has been filed with the EEOC against CKE for retaliation
15 during the term of this Consent Decree, does not standing alone prove that CKE has
16 failed to comply with the provisions of this section and/or of the Consent Decree. The
17 EEOC bears the burden of proving that CKE failed to take all reasonable steps within its
18 power to insure compliance with this Consent Decree in order to establish that CKE is
19 liable of civil contempt for violating the terms of the decree.
20

21
22 V.

23 MONETARY RELIEF

24 1. Total Settlement Sum. CKE agrees to pay the total sum of \$255,000.00 (Two-Hundred
25 Fifty-Five Thousand and No Cents) (hereinafter referred to as the "Total Settlement
26 Sum") as damages, to be allocated to Michal Galloway and other Eligible Claimants (as
27 defined below at section V(3)(B), if any, for their claims of alleged racial harassment by
28 James Teteak and/or retaliation. CKE agrees to pay the Total Settlement Sum in

1 accordance with the terms set forth below at sections V(2) and (3).

2 2. Michal Galloway.

3 A. Michal Galloway shall be paid a satisfactory sum representing damages for lost
4 wages and damages for physical injuries and/or physical illness and/or emotional
5 distress. The Parties agree that Galloway shall be paid a total of \$105,000.00
6 (One Hundred-Five Thousand Dollars and No Cents). The \$105,000.00 amount is
7 defined as the Galloway Initial Settlement Sum. The Parties agree that \$5000.00
8 (Five Thousand Dollars and No Cents) of the Galloway Initial Settlement Sum
9 shall represent payment for lost wages and that payroll taxes shall be withheld
10 from this amount. The Parties also agree that \$100,000.00 (One Hundred
11 Thousand Dollars and No Cents) of the Galloway Initial Settlement Sum shall be
12 payment for damages for physical injuries and/or physical illness and/or
13 emotional distress.

14 B. The parties agree that Galloway may be entitled to recover additional money from
15 the remaining \$150,000.00 (one hundred and fifty thousand dollars) (the
16 "Settlement Fund"). The EEOC shall determine the remaining amount, if any, to
17 which Galloway is entitled pursuant to the claims procedures set forth below in
18 section V(3).

19 C. CKE shall pay the Galloway Initial Settlement as follows:

20 1) Within ten (10) days of the entry of this Consent Decree, counsel for
21 Michal Galloway, (The Law Offices of Michal D. Nkosi, P.O. Box 2582,
22 Chester VA 23821 (hereafter "Nkosi"), Nkosi shall forward an original
23 signed copy of the Release Form attached hereto as Exhibit A and the
24 Internal Revenue Service Form W-9 attached hereto as Exhibit B to
25 counsel for CKE executed by Nkosi and Galloway. Nkosi shall forward
26 copies of the executed forms to counsel for the EEOC.

27 2) Within ten (10) days of the receipt of the Release Form and W-9 forms
28

1 executed by Nkosi and Galloway, CKE shall issue a check to "The Law
2 Offices of Michael D. Nkosi in Trust for Michal Galloway" in the amount
3 of \$5000.00 (Five Thousand Dollars and No Cents) less applicable payroll
4 taxes and another check to "The Law Offices of Michael D. Nkosi in Trust
5 for Michal Galloway in the amount of \$100,000.00 (One Hundred
6 Thousand Dollars and No Cents). CKE shall make the payments in the
7 form of a business check, cashier's check or certified check. Within ten
8 (10) days of the receipt of the executed Release and W-9 form, CKE shall
9 mail the checks set forth above to Nkosi. Copies of these checks shall be
10 sent to counsel for the EEOC.

11 3) The Parties agree that Nkosi is responsible for the distribution of the
12 Galloway Initial Settlement Sum to Galloway. The failure of Nkosi to
13 distribute these funds and/or any dispute between Galloway and Nkosi as
14 to the amount distributed to Galloway shall have no effect on this Consent
15 Decree.

16 4) CKE shall report the payment in the amount of \$5000.00 (Five Thousand
17 Dollars and No Cents), which represents payment for lost wages, by
18 providing Nkosi with a copy of a W-2 form relating to such payment.
19 CKE shall report the payment in the amount of \$100,000.00 (One
20 Hundred Thousand Dollars and No Cents) by issuance of an Internal
21 Revenue Service Form 1099 in accordance with the information provided
22 by Nkosi and Galloway on the Internal Revenue Service W-9 Form.
23 Galloway's 1099 form shall be mailed to Nkosi.

24
25 3. Identified and Unidentified Claimants

26 A. Settlement Fund Amount. CKE agrees to pay the sum of \$150,000.00 (One
27 Hundred Fifty Thousand Dollars and No Cents) in damages ("Settlement Fund")
28 to be distributed to all "Eligible Claimants" (as that term is defined in section

1 V(3)(B) below) all in accordance with the provisions of this Consent Decree.

2 B. Eligible Claimants

3 1) Definition. The Settlement Fund shall be used to make payments to
4 persons, including, Michal Galloway, who timely submit Claim Forms
5 (such persons are hereinafter referred to as "Claimants") and who the
6 Commission determines to be eligible to receive monetary relief in this
7 lawsuit (such persons are hereinafter referred to as "Eligible Claimants.").

8 2) Eligibility Criterion. Eligible Claimants shall include only those claimants
9 who satisfy each and all of the following criteria:

10 a. The Claimant is one of the following:

11 i An African-American individual employed by CKE at its
12 Elk Grove-Florin Road Restaurant in Elk Grove, California
13 (Restaurant Number 223) at any time between February 23,
14 2001 and October 10, 2002; or

15 ii A Non-White individual employed by CKE at its Elk
16 Grove - Florin Road Restaurant in Elk Grove, California
17 (Restaurant Number 223) from February 23, 2001 to
18 October 10, 2002 and signed a petition alleging that James
19 Teteak engaged in racial harassment;
20

21 b. The Claimant had a work schedule which overlapped at any time
22 with the schedule of James Teteak;

23 c. The Commission timely received a Claim Form from the Claimant,
24 in accordance with the procedures set forth in this Consent Decree
25 and in the Notice of Consent Decree ("Notice") and Claim Form.
26 A copy of the Claim Form and Notice are attached hereto and
27 incorporated herein by this reference as Exhibits C and D,
28 respectively;

1 d. The Commission received credible evidence that the Claimant was
2 subjected to racial harassment by James Teteak or retaliated
3 against for opposing racial harassment by James Teteak during the
4 period of February 23, 2001 to October 10, 2002; and

5 e. The Claimant has not previously signed a release which would
6 cover the actions complained of by Claimant.

7 3) Factors Considered by the EEOC in Making Eligibility Determinations.

8 Acting in its discretion, the EEOC shall exclusively determine the
9 eligibility of Claimants for relief under this Consent Decree. In
10 determining such eligibility, the EEOC shall consider the following
11 factors: (a) severity of any alleged harassment/retaliation; (b) duration of
12 any alleged harassment/retaliation; (c) extent of alleged harm, and (d)
13 whether, and, if so, the extent to which the Claimant complained to the
14 EEOC and/or cooperated or participated in this litigation or the
15 administrative investigation leading to this litigation prior to the date of
16 entry of this Consent Decree. The EEOC may also consider whatever
17 evidence the EEOC deems appropriate, including, but not limited to
18 evidence received by the EEOC in its investigation of the charges of
19 discrimination underlying this action and in connection with the claims
20 process provided by this Consent Decree.
21

22 4) Decision on Amounts Allocated to Eligible Claimants. Acting in its
23 discretion, the EEOC shall determine the portion of the Settlement Fund
24 that will be allocated to each Eligible Claimant for damages for physical
25 injuries and/or physical illness and/or emotional distress. The amounts
26 allocated to each Eligible Claimant shall reflect the factors enumerated in
27 paragraph V(3)(B)(3), above. This Consent Decree contemplates that
28 there may be significant differences in awards to the Eligible Claimants.

1 C. Procedures to Provide Notice

2 1) Consent Decree Administrator. The Parties agree that the firm of Rust
3 Consulting (the "Consent Decree Administrator") shall be responsible for
4 the administration of sending notices and payments from the Settlement
5 Fund.

6 2) Notice to Potential Claimants.

7 a. Notice of Consent Decree by Consent Decree Administrator

8 i Notice shall be provided to all individuals who satisfy the
9 criteria set forth above at sections V(3)(B)(2)(a) and (b)
10 (the "Potential Claimants").

11 ii No later than thirty (30) days after the entry of this Consent
12 Decree, CKE shall provide the Consent Decree
13 Administrator with a list of individuals who meet the
14 criteria of a Potential Claimant (the "Claimant List"). The
15 Claimant List shall state the name, social security number
16 and last known home address for each individual on the
17 Claimant List. A copy of the Claimant List shall also be
18 forwarded to the EEOC. The EEOC agrees that it will
19 utilize the Claimant List only in conjunction with the
20 administration of this Consent Decree and that it will
21 disclose the information on the Claimant List only to
22 persons who need the information for the purposes of
23 administering this Consent Decree.

24 iii The Consent Decree Administrator shall follow the
25 following steps to ensure that notice is provided to all
26 Potential Claimants:

27 (a) Within ten (10) days of the receipt by the Consent
28

1 Decree Administrator of the Claimant List from CKE, the
2 Consent Decree Administrator shall perform a national
3 change of address search using the National Change of
4 Address Data Base for each Potential Claimant.

5 (b) Within seven (7) days of performing the national
6 change of address search, the Consent Decree
7 Administrator shall mail the Notice and Claim Form
8 (Exhibits C and D) by first class United States mail postage
9 prepaid to each address which it obtains as a result of the
10 national change of address search.

11 c) If, after sending the Notice and Claim Form to the
12 address(es) found as a result of the national change of
13 address search, a Notice and Claim Form is returned as
14 undeliverable, the Consent Decree Administrator shall
15 perform a search through the Lexis/Nexis Social Security
16 Credit Card Header Records Data Base to determine
17 alternative and/or additional addresses for any Potential
18 Claimant whose Claim Form was returned as undeliverable
19 and send a copy of the Notice and Claim Form to any and
20 all addresses of the Potential Claimant obtained through the
21 Lexis/Nexis search not previously identified and used for
22 mailing. The Lexis/Nexis search shall be conducted within
23 seven (7) days of notice that the Notice and Claim Form
24 were returned as undeliverable;
25

26 d) As to any Potential Claimant to whom the Consent
27 Decree Administrator has not been able to deliver a Notice
28 and Claim Form after conducting the Lexis/Nexis search

1 and sending the Notice and Claim Form to all alternative
2 and/or additional addresses obtained through the
3 Lexis/Nexis search, the Consent Decree Administrator shall
4 send a Notice and Claim Form to the Potential Claimant at
5 any and all previous addresses obtained for the Potential
6 Claimant either from CKE's records, the national change of
7 address search and/or the Lexis/Nexis search not previously
8 identified and used for mailing.

9 (e) If, after performing the steps outlined in paragraphs (a)
10 through (d) above, the Consent Decree Administrator has
11 not been able to deliver a Notice and Claim Form to any
12 Potential Claimants, the Consent Decree Administrator will
13 provide written notice to the EEOC informing the EEOC of
14 the claimant's name and addresses to which the Consent
15 Decree Administrator has attempted delivery. The notice
16 to the EEOC shall be sent no later than seven (7) days after
17 the Consent Decree Administrator has learned that the steps
18 in paragraphs (a) through (d) were unsuccessful.

19
20 iv No later than twenty-one (21) days after the completion of
21 all of the steps set forth above at section (V)(3)(C)(2)(iii)
22 the Consent Decree Administrator shall provide counsel for
23 CKE and the EEOC with a declaration setting forth all
24 steps that it took to provide notice of this Consent Decree
25 to all potential claimants and attesting to the completion of
26 the notice process (except for any ongoing attempt to
27 obtain valid mailing addresses and resending of any
28 returned Notice and Claim forms) (the "Declaration of

1 Compliance"). The Declaration of Compliance shall be
2 filed with the court by CKE's counsel within seven (7) days
3 of receipt by CKE's counsel.

4 b. Notice by CKE. CKE agrees to provide Notice to all Potential
5 Claimants who are still employed by CKE by including a copy of
6 the Notice and Claim Form (Exhibits C and D) in the paycheck
7 which is issued immediately after CKE provides the Claimant List
8 to the Consent Decree Administrator.

9 c. Sufficient Notice. The parties agree that compliance with the
10 procedures set forth in this section constitutes sufficient notice to
11 Potential Claimants of this Consent Decree and satisfies the
12 requirements of due process. Nothing else shall be required of the
13 Consent Decree Administrator or CKE. The EEOC reserves the
14 right to take additional steps to locate Potential Claimants after the
15 Consent Decree Administrator has exhausted its efforts. Any
16 additional steps which the EEOC wishes to take to locate Potential
17 Claimants must be completed at least thirty (30) days prior to the
18 last day that a Potential Claimant may make a claim under section
19 V(3)(D). The Parties agree that the EEOC's additional steps may
20 not include steps which the Consent Decree Administrator has
21 already taken and further agree that any additional steps to locate
22 Potential Claimants may include only one (1) publication in a
23 newspaper.
24

25 D. Making a Claim. All Potential Claimants who wish to participate in the
26 distribution of the Settlement Fund must complete and return the Claim Form (in
27 the form of Exhibit C attached to this Consent Decree) to the EEOC so that it is
28 received by the EEOC or its designated agent(s) or postmarked no later than June

1 16, 2006.

2 E. The EEOC's Determination of Eligibility and Computation of Claims.

3 1) Determination of Eligibility. Within sixty (60) days after the deadline for
4 receipt by the EEOC of returned Claim Forms, the EEOC shall make its
5 determinations as to claimant eligibility and determinations as to the gross
6 (pre-tax) amount of monetary relief from the Settlement Fund that will be
7 awarded to Eligible Claimants.

8 2) Notification of Eligibility. Within thirty (30) days after the EEOC's
9 determination of eligibility and amounts under section (V)(3)(E)(1) above,
10 the EEOC shall mail to each person from whom it has received a Claim
11 Form the following information: (a) whether he or she has been designated
12 as eligible to be awarded relief; (b) the determination as to the gross (pre-
13 tax) amount of the monetary relief to which such person shall be entitled;
14 and (c) notice of the opportunity to object to the EEOC's determination in
15 accordance with the provisions of the Consent Decree. The letter will also
16 inform each Eligible Claimant that any monetary payments received from
17 the Settlement Fund may be subject to mandatory federal, state and local
18 income tax withholding.

19 3) Objection Procedure. Any objections to the EEOC's determination under
20 section (V)(3)(E)(2) must be done as follows:

21 a. Any Claimant whose Claim Form is timely received by the EEOC
22 and who desires to object to an EEOC determination concerning
23 eligibility or amount under section V(3)(E)(2) above, may do so by
24 submitting to the EEOC within thirty (30) days after the date of
25 mailing of the EEOC's determination, a written objection. Any
26 such written objection must state the basis for the objection and the
27 specific reasons for such objection.
28

- 1 b. Within two (2) weeks after receipt of such written objection, the
2 EEOC shall review its determination as to eligibility for the
3 objecting claimant and either deny the objection or modify its
4 determination as to eligibility and/or amount.
- 5 c. If the EEOC's modification of the eligibility or amount
6 determination results in a change to the eligibility determination
7 and/or amount determined of any other Eligible Claimant, the
8 EEOC shall mail the modified determination to any and all
9 affected Eligible Claimants.
- 10 d. Any Eligible Claimant who receives a modified determination has
11 the right to file an objection within thirty (30) days of the receipt of
12 the modified determination. The EEOC then has two (2) weeks
13 from the date of receipt of the objection to either deny the
14 objection or modify the determination.
- 15 e. This process shall continue until no objections to the EEOC's
16 determinations of eligibility and amount are received for a period
17 of twenty-one (21) days. If no objection is received to the EEOC's
18 determinations for a period of twenty-one days after the
19 determinations are sent, the determinations shall become the
20 EEOC's final determination.

21

22 F. Notification of Final Distribution Amount. Once the EEOC's determination has
23 become final, the EEOC shall mail to each Eligible Claimant a letter notifying the
24 Eligible Claimant of the gross (pre-tax) amount of the payment to which such
25 Eligible Claimant was finally determined to be entitled (hereinafter the "Final
26 Gross Settlement Amount"). The EEOC shall also mail to each Eligible Claimant
27 a copy of the Release Form attached hereto as Exhibit E and the Internal Revenue
28 Service W-9 Form attached hereto as Exhibit B. When each Eligible Claimant

1 returns the completed and executed Release and W-9 forms to the EEOC, the
2 EEOC shall forward to CKE a copy of the executed Release and W-9 form and
3 information as to the amount of the Final Gross Settlement Amount to be paid to
4 the Eligible Claimant who provided the Release and the address to which the
5 Eligible Claimant's check may be sent.

6 G. Payment of Final Gross Settlement Amount. Within fourteen (14) days after
7 receiving the Release and W-9 forms executed by an Eligible Claimant and the
8 information regarding the check to be provided to that Eligible Claimant, CKE
9 shall mail a check drawn in the Final Gross Settlement amount to the Eligible
10 Claimant from whom CKE received the Release and W-9 form at the address of
11 the Eligible Claimant provided by the EEOC.

12 H. Payment of Portion of Settlement Fund to Galloway. In the event that as part of
13 the claims process the EEOC determines that Galloway is entitled to additional
14 compensation, the EEOC shall mail a Release Form and W-9 form, attached as
15 Exhibits E and B, to Nkosi for execution and completion by Nkosi and Galloway.
16 When the EEOC receives the Release and W-9 forms executed by Nkosi and
17 Galloway, the EEOC shall forward a copy of the executed Release and W-9 to
18 CKE, along with information as to the Final Gross Settlement Amount due to
19 Galloway. Within fourteen (14) days of receipt of CKE's receipt of the Release
20 and W-9 executed and completed by Nkosi and Galloway, CKE shall mail a
21 check drawn in the Final Gross Settlement Amount for Galloway to Nkosi. The
22 Parties agree that Nkosi is responsible for the distribution of the Final Gross
23 Settlement Amount to Galloway. The failure of Nkosi to distribute these funds
24 and/or any dispute between Nkosi and Galloway as to the amount distributed to
25 Galloway shall have no effect on this Consent Decree.

26 I. Verification of Payment of Final Gross Settlement Amounts. CKE shall send a
27 copy of each check mailed pursuant to this section to the EEOC. CKE shall also
28

1 notify the EEOC in writing of any check for the Final Gross Settlement Amount
2 that is returned. The Consent Decree Administrator shall take the following steps
3 to track those Eligible Claimants who did not receive the check for the Final
4 Gross Settlement Amount:

5
6 1) The Consent Decree Administrator shall do a national change of address
7 search using the National Change of Address Data Base for each address to which
8 CKE mailed any returned check and shall send the returned check to the address
9 which it obtains from the national change of address search;

10
11 2) If the check is returned as undeliverable again, the Consent Decree
12 Administrator shall perform a search through the Lexis/Nexis Social Security
13 Credit Card Header Records Data Base to determine alternative and/or additional
14 addresses for any Eligible Claimant whose check was returned as undeliverable
15 and attempt to deliver the check to any alternative and/or additional addresses
16 obtained through the Lexis/Nexis search.
17

18
19 The Parties agree that if the Consent Decree Administrator has been unsuccessful
20 in locating an Eligible Claimant to deliver a Final Gross Settlement Amount for a
21 period of six (6) months from the date of issuance of the check, that the amount of
22 the Final Gross Settlement Amount that could not be delivered shall be included
23 in the unallocated amount that shall be distributed as set forth below in section
24 V(3)(K).
25

26 J. Reporting of Payment of Final Gross Settlement Amounts. CKE shall report each
27 payment of a Final Gross Settlement Amount to an Eligible Claimant by issuance
28 of an Internal Revenue Service Form 1099 to the Eligible Claimant in accordance

1 with the information provided by the Eligible Claimant on the Internal Revenue
2 Service W-9 form.

3 K. Allocation of Any Amounts Not Paid Out of Settlement Fund. If the Final Gross
4 Settlement Amount cannot be delivered to an Eligible Claimant within six months
5 of the Final Determination, any amount not paid to an Eligible Claimant shall be
6 distributed to the following charitable organization: William K. Morgan
7 Scholarship Fund.

8 4. Costs Associated with Claimant Process. All costs associated with the distribution of the
9 Settlement Fund to Eligible Claimants shall be paid as follows:

10 A. CKE shall be responsible for paying the reasonable costs associated with the
11 Consent Decree Administrator and costs associated with the processing of checks
12 to Eligible Claimants and required administrative agency filings (e.g. issuance of
13 pertinent 1099s, etc.). The Parties agree that the maximum amount of the costs
14 CKE will be required to pay above and beyond the Total Settlement Amount is
15 \$10,000.00 (Ten Thousand Dollars and No Cents). If the \$10,000.00 (ten
16 thousand dollar) cap is reached prior to the completion of Consent Decree
17 Administrators obligations under the claims process, the EEOC reserves the right
18 to complete the process of locating the claimants or to pay the remaining cost for
19 the administrator to complete the process.

20 B. The EEOC agrees that should it decide under section V(3)(C)(2)(c) to take steps
21 to provide notice to Potential Claimants in addition to those steps taken by the
22 Consent Decree Administrator to provide notice to Potential Claimants as set
23 forth in section V(3)(C)(2)(a)(iii), that the EEOC shall be responsible for all costs
24 associated with taking those additional steps.

25 C. The EEOC will be responsible for paying reasonable costs associated with the
26 processing of claim forms pursuant to Section V(3)(B), (E) and (F), above.
27
28

VI.

SPECIFIC INJUNCTIVE RELIEF

- 1
2
3 1. Zero Tolerance. CKE affirms the following “Statement of Zero-Tolerance Policy and
4 Equality Objectives”:

5 CKE is firmly committed to maintaining a zero-tolerance policy
6 concerning discriminatory harassment and retaliation against
7 individuals who report harassment in the company’s workplace; to
8 swiftly and firmly responding to any acts of harassment and
9 retaliation of which the company becomes aware; to implementing
10 a disciplinary system that is designed to strongly deter future acts
11 of harassment or retaliation; and to actively monitoring its
12 workplace in order to ensure tolerance, respect and dignity for all
13 people.

14
15 This paragraph does not create any individual or common law causes of action or other
16 rights that would not otherwise exist under statute.

- 17 2. EEO and Harassment Policies.

18 A. Content of Policy. CKE certifies that its harassment policies, contain all of the
19 following and will continue to contain the following throughout the duration of
20 this Decree: (i) definitions of discriminatory harassment, with specific reference
21 to harassment based on race and color; (ii) examples to supplement the definitions
22 of harassment based on race and color; (iii) appropriate discipline and/or
23 corrective actions for incidents of discriminatory harassment; (iv) strong non-
24 retaliation language with examples to supplement the definition of retaliation; (vi)
25 language that complaints of harassment and/or retaliation will be accepted
26 irrespective of whether they are made verbally or in writing; (vii) a timetable for
27 commencing an investigation after a complaint is made or received and for
28 appropriate remedial action, if necessary, to be taken upon conclusion of an

1 investigation; and (viii) language which indicates that, promptly upon the
2 conclusion of the investigation of a complaint, CKE will communicate to the
3 complaining party the results of the investigation and the remedial actions taken
4 or proposed, if any.

5 B. Distribution of Policy. CKE shall effectively disseminate its EEO and harassment
6 policies and procedures by:

- 7 1) Distributing copies of the policies to all current employees within District
8 22 within thirty (30) days of the entry of this Consent Decree; and
9 2) Giving a copy of the policies to and reviewing the policies with all new
10 employees in District 22 upon the employees' hire. District 22 includes
11 Units 59, 199, 223, 251, 264, 351, 516, 557 and 567.

12 3. Complaint Procedure. CKE certifies that CKE's policy and procedure relating to
13 complaints of harassment (the "Complaint Policy"), is designed to encourage employees
14 to come forward with complaints about violations of its harassment policies. The Parties
15 further agree that CKE's Complaint Policy provides CKE's employees with convenient,
16 confidential and reliable mechanisms for reporting incidents of harassment and
17 retaliation. The Parties also agree that CKE's Complaint Policy notifies employees that
18 they can lodge a complaint with their immediate supervisor or the Director of Human
19 Resources and provides the name and telephone number for the Director of Human
20 Resources. CKE shall ensure that contact information for the Director of Human
21 Resources is also continuously posted in a prominent place at all of CKE's business
22 locations in District 22 during the term of the Consent Decree.

23 4. Policies Designed To Promote Supervisor Accountability

24 A. Communications of Potential Discipline for Engaging in Harassment. CKE
25 agrees that it shall impose appropriate discipline up to and including termination,
26 suspension without pay or demotion, upon any supervisor or manager who CKE
27 determines has engaged in racial harassment or permits any such conduct to occur
28

1 in his or her work area or among employees under his or her supervision, or who
2 retaliates against any person who complains or participates in any investigation or
3 proceeding concerning such conduct. CKE shall communicate this policy to all of
4 its supervisors or managers in District 22.

5 B. Communication of Duty to Actively Monitor Worksite. CKE agrees that it shall
6 continue to advise its managers and supervisors in District 22 of their duty to
7 actively monitor their work areas and to ensure employees' compliance with
8 CKE's anti-harassment policy, and to report any incidents and/or complaints of
9 harassment and/or retaliation.

10 5. Posting Regarding Consent Decree. The Notice of the Consent Decree, attached hereto
11 as Exhibit D, shall be, and remain, posted in a clearly visible location frequented by
12 employees at each restaurant in CKE's District 22 during the term of this Consent
13 Decree.

14 6. Training of Employees. CKE agrees that within ninety (90) days of the entry of this
15 Consent Decree, under the direction of an outside consultant paid by CKE, CKE shall
16 provide and require all current employees in CKE's Unit No. 223 and all current and new
17 supervisors and managers working in District 22 to attend anti-harassment training. The
18 purpose of said training shall be to give participants a thorough understanding of
19 harassment issues, particularly racial harassment, including but not limited to theories of
20 liability under Title VII, sources of legal protection for racial harassment victims and the
21 employer's obligation to take preventative, investigative and remedial action with respect
22 to harassment complaints and to review company policies (including discipline policies)
23 and practices related to racial harassment and retaliation. The training shall be designed
24 and conducted with specific reference to the anti-harassment policies of CKE by an
25 outside consultant in conjunction with company personnel. CKE agrees to allow the
26 outside consultant to conduct the significant portions of all training programs. The
27 consultant shall be selected by CKE, subject to the approval by counsel for the EEOC,
28

1 which approval shall not be unreasonably withheld. The consultant shall be a person or
2 entity with established experience in matters of racial discrimination and the applicable
3 laws and regulations. Any change in consultants during the terms of this Consent Decree
4 can be done only upon the joint approval of counsel for the EEOC and CKE, or, if a
5 dispute arises, upon Order of the Court.

6 A. Training Logistics. The content, method of training and size of training classes is
7 subject to the approval by the EEOC which approval shall not be unreasonably
8 withheld and which shall take into consideration specific operational needs
9 identified by CKE at the time its submits its description of the training to the
10 EEOC. CKE agrees to provide a description of each training program to counsel
11 for the EEOC no later than thirty (30) days before the training programs are
12 scheduled to be held. The EEOC must voice any objection to the training within
13 twenty (20) days of the scheduled training.

14 B. Acknowledgement of Training Attendance. All persons attending mandatory
15 anti-harassment training pursuant to this Consent Decree shall sign an
16 acknowledgement of their attendance at the training, the date thereof, and their
17 position with the company. The consultant shall retain the originals of these
18 acknowledgements and provide CKE with a copy thereof.

19
20 **VII.**

21 **EXPUNGEMENT OF RECORDS AND DISCLOSURE OF INFORMATION**
22 **REGARDING GALLOWAY'S AND ELIGIBLE CLAIMANT'S EMPLOYMENT**

23 1. CKE shall not disclose any information about or make references to any charges of
24 discrimination or this lawsuit in responding to employment reference requests for
25 information about Michal Galloway or any of the Eligible Claimants. In response to a
26 specific inquiry from a potential employer of Galloway or an Eligible Claimant, CKE
27 agrees that it shall disclose only the dates of employment, position held and final rate of
28 pay of Galloway and/or the Eligible Claimants. Galloway and the Eligible Claimants

1 shall inform all potential employers seeking employment reference requests to direct their
2 request to Esther Luna, Carl Karcher Enterprises, Inc.

- 3 2. CKE shall expunge from Michal Galloway's personnel file any reference to her
4 termination and her charge of discrimination against CKE and this lawsuit.
- 5 3. CKE shall modify Michal Galloway's personnel file such that the reason for her
6 separation from employment is officially reported as a resignation rather than a
7 termination.
- 8 4. CKE may report any information about Galloway and/or any Eligible Claimant as
9 required to state or federal authorities.
- 10 5. CKE may disclose information about Galloway and/or any Eligible Claimant if required
11 to do so by a Court order.
- 12 6. Within ten (10) days from the date of entry of this Consent Decree, CKE shall provide
13 Michal Galloway with a letter which states her dates of employment and positions held.
14 The original letter of reference shall be sent to Nkosi.

16
17 **VIII.**

18 **REPORTS TO THE COMMISSION**

- 19 1. Training Report. Within thirty (30) days of completion of the training required by
20 section VI(6) of this Consent Decree, CKE will send the EEOC appropriate verification
21 of its completion of harassment training.
- 22 2. Racial Harassment Complaint Reports. CKE agrees to file the following reports relating
23 to complaints of racial harassment made in CKE's District 22.
 - 24 A. Initial Complaint Report. Ninety days after the entry of this Consent Decree,
25 CKE will mail to counsel for the EEOC a report containing the following
26 information and documentation (the "Initial Complaint Report"):
 - 27 1) A summary of all racial harassment complaints made in CKE's District 22
28 since the entry of the Consent Decree. This summary shall contain a brief

1 description of the type of complaint and a statement as to each as to the
2 result of the investigation of such complaint. This report will identify the
3 complaints by number and will not set forth identifying information of
4 CKE employees.

- 5 2) A copy of all records, documents and other writings relevant to such
6 complaints and investigations shall be maintained by CKE during the
7 period of the Consent Decree. Copies of the documents shall be made
8 available to the Commission within ten (10) days following a written
9 request from the Commission to CKE's counsel. The EEOC recognizes
10 that documents relating to these complaints may contain identifying
11 information of CKE employees. The EEOC agrees that it will not use this
12 identifying information for any purpose other than the administration of
13 this Consent Decree and that it shall not provide this identifying
14 information to any person other than a person who needs this information
15 to administer this Consent Decree.
16

- 17 B. Subsequent Complaint Reports. On the first day of January and June of each year
18 during the duration of this Consent Decree, CKE will mail to counsel for the
19 Commission a report containing the above documentation and information.

20 IX.

21 **RETENTION OF JURISDICTION AND EXPIRATION OF CONSENT DECREE**

- 22 1. This Consent Decree shall terminate two years from the date of entry by the Court, unless
23 the EEOC petitions this Court for an extension of the Decree because of noncompliance
24 by CKE. If the EEOC asserts that CKE has not complied with the Consent Decree, the
25 EEOC shall provide written notification of the alleged breach to CKE and will not
26 petition the Court for enforcement sooner than thirty (30) days after providing written
27 notification. The thirty-day period following written notice shall be used by the parties
28 for good faith efforts to resolve the issue. If the EEOC petitions the Court and the Court

1 finds that CKE is not in substantial compliance with the terms of the Decree, the Court
2 may extend this Consent Decree. Any extension of this Consent Decree must be ordered
3 by this Court prior to the expiration of the Consent Decree on its own terms.

4 2. The parties agree that CKE is in substantial compliance with this Consent Decree as long
5 as CKE has complied with the provisions set forth in this Consent Decree. The Parties
6 further agree that the mere fact that an employee has filed a charge with the EEOC
7 alleging racial harassment or retaliation against CKE during the term of this Consent
8 Decree is not proof standing alone that CKE has not complied with the terms of this
9 Consent Decree. The EEOC bears the burden of proving that CKE failed to take all
10 reasonable steps within its power to insure compliance with this Consent Decree in order
11 to establish that CKE is liable of civil contempt for violating the terms of the decree.
12

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28


1 3. This Consent Decree shall expire by its own terms at the end of the two (2) years without
2 further action by the Parties. Upon the expiration of the Consent Decree, the EEOC will
3 dismiss this lawsuit with prejudice. Additionally, upon the expiration of this Consent
4 Decree, the EEOC releases any and all claims against CKE arising out of or relating to
5 this action and the underlying charge and/or claims of harassment by James Teteak
6 and/or retaliation for complaining about harassment by Teteak.
7

8 Respectfully submitted.

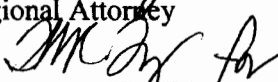
9
10 JAMES L LEE
11 Deputy General Counsel

12 EQUAL EMPLOYMENT
13 OPPORTUNITY COMMISSION
14 1801 L. Street, N.W.
15 Washington DC 20507

15 Dated: 12/6/05


16 WILLIAM R. TAMAYO
17 Regional Attorney

17 Dated: 12/6/05


18 JONATHAN T. PECK
19 Supervisory Trial Attorney

19 Dated: 12/6/05


20 MARCIA L. MITCHELLE
21 Senior Trial Attorney

22 EQUAL EMPLOYMENT
23 OPPORTUNITY COMMISSION
24 San Francisco District Office
25 350 The Embarcadero, Suite 500
26 San Francisco, Ca 94105
27 Telephone: (415) 625-5651

25 Dated: 12/1/05



26 CHARLES A. SEIGEL, III
27 Attorney for Defendant
28 CKE RESTAURANTS, INC.
6307 Carpinteria Avenue, Suite A
Carpinteria, Ca 93013-2901

EXHIBIT A

Consent Decree
CIV. NO. 2:05-CV-01978 FCD PAN

GENERAL RELEASE AND SETTLEMENT AGREEMENT

This General Release and Settlement Agreement (“Agreement”) is made and entered into by and between Michal Galloway (“Galloway”) and Carl Karcher Enterprises, Inc. (“CKE”). (Galloway and CKE are collectively referred to herein as the “Parties”).

I.

GENERAL RECITALS

This General Release and Settlement Agreement is made for the following purposes and with reference to the following facts:

- 1.1 **Purpose** The purpose of this Agreement is to settle and compromise all disputes and controversies existing between the Parties hereto, including, but not limited to any and all claims that are raised or might have been raised by Galloway against CKE. This Agreement supplements the Consent Decree entered into by the Equal Employment Opportunity Commission (“EEOC”) and CKE, which is necessary to properly resolve and settle the complaint for racial harassment and retaliation filed by the Equal Employment Opportunity Commission, Case Number 2:05-CV-01978 FCD PAN, which arose out of the charge for racial harassment and retaliation filed by Galloway with the EEOC (Charge No. 376A300073). The consent decree entered into in Case No. 2:05-CV-01978 FCD PAN, a copy of which is attached as Exhibit “1” to this Agreement, is referred to as the “Consent Decree”.

II.

SETTLEMENT OBLIGATIONS

2.1 Obligations of CKE

A. **Payment to Galloway** Subject to Galloway's compliance with the terms of this Agreement, CKE will pay to Galloway an Initial Settlement Sum of one hundred and five thousand dollars (\$105,000.00) and the amount, if any, that the EEOC determines should be paid to Galloway from the Settlement Fund which is provided for in Sections V(2)(B) and V(3) of the Consent Decree. The payment of the Initial Settlement Sum and the amount, if any, that the EEOC determines should be paid to Galloway from the Settlement Fund under Sections V(2)(B) and V(3) of the Consent Decree is the total amount that CKE will pay to Galloway.

B. **Characterization of Payments to Galloway** It is expressly understood and agreed that \$~~5,000~~^{50,000} of the Initial Settlement Sum of one hundred and five thousand dollars (\$105,000.00) that will be paid to Galloway has been designated by Galloway as the compensation for Galloway's claim for back pay. The Parties specifically agree and acknowledge that the amount allocated as back pay was decided upon by Galloway, and not upon any advise, counsel, or demand by CKE and/or its agents with respect to the allocation herein. Galloway represents that this allocation is fair and reasonable under the facts of this case. Galloway further acknowledges that CKE is relying solely on her representation in this regard, and on the request by her with respect to this allocation, in entering into this Agreement.

C. **Time and Form of Payments to Galloway** The payments due to Galloway shall be made as follows:

1) **Payment of Initial Settlement Sum** Within ten (10) days of receipt of this Agreement executed by Galloway and her attorney, Michael Nkosi ("Nkosi"), and an Internal Revenue Service Form W-9 executed by Nkosi and Galloway, CKE shall forward, via mail to counsel for Galloway, Nkosi, at The Law Offices of Michael D. Nkosi, P.O. Box 2582, Chester, Va. 23821, the following checks in the form of a business check, cashier's check or certified check:

(A) A check in the amount of \$^{MDN mgt}5,000.⁰⁰, less appropriate payroll taxes and withholdings, made payable to "The Law Offices of Michael D. Nkosi in Trust for Michal Galloway". This amount is the agreed upon amount of back pay owed to Galloway. To the extent any withholdings are made, FICA and federal and state withholding taxes shall be deducted from this amount that is designated as back pay only. CKE shall pay the employer's share of FUTA and FICA on the back pay amount and shall not deduct it from the settlement amount. CKE shall issue a W-2 form in relation to this payment.

MDL 1724

- (B) A check in the amount of \$100,000.00 made payable to "The Law Offices of Michael D. Nkosi in Trust for Michal Galloway". This amount shall be to compensate Galloway for her physical injuries, physical illness and/or emotional distress, and, as such, no withholding will be made from the amount designated as compensatory damages.
- 2) Payment of Any Additional Sum Due to Galloway Under Section V(2)(B) of the Consent Decree Should the EEOC determine that Galloway is entitled to recover additional money from the Settlement Fund under Sections V(2)(B) and V(3) of the Consent Decree, CKE shall make the payment as provided in Section V(3)(H) of the Consent Decree. Specifically, within fourteen (14) days of CKE's receipt of the Release and W-9 form relating to payment from the Settlement Fund executed by Nkosi and Galloway, CKE shall forward a check drawn in the Final Gross Settlement Amount made payable to The Law Offices of Michael D. Nkosi in Trust for Michal Galloway" to Nkosi.
- 3) With the exception of the payment for lost wages set forth in section 2.1(C)(1)(A), CKE shall prepare and distribute 1099 tax reporting forms to Galloway and shall make appropriate reports to the Internal Revenue Service and other tax authorities in accordance with the information provided by Nkosi and Galloway on the Internal Revenue Service W-9 forms. Galloway's 1099 form shall be mailed to Nkosi.

D. Non-Admission of Liability or Wrongdoing CKE and the Releasees have denied and continue to deny any violation of any law, contract or public policy or any other wrongdoing whatsoever and any liability to Galloway. CKE and the Releasees specifically deny and disclaim any liability to or wrongful acts against Galloway or any other person. This Agreement shall not in any way be construed as an admission by CKE or the Releasees of any liability or wrongdoing, whatsoever, or as an admission by CKE or the Releasees that they have acted wrongfully in any way with respect to Galloway or any other person, or as an admission by CKE or the Releasees that Galloway or any other person has any rights whatsoever against CKE or the Releasees.

E. Employment Reference Requests CKE agrees not to disclose any information or make any reference to any charges of harassment or retaliation or Case No. 2:05-CV-01978 FCD PAN in responding to employment reference requests about Galloway. In response to a specific inquiry from a potential employer about Galloway, CKE agrees that it shall disclose only the dates of Galloway's employment, the positions held by Galloway and Galloway's final rate of pay. Galloway agrees that she shall inform all potential employers to direct any employment reference requests to Esther Luna at Carl Karcher Enterprises, Inc.

F. Letter Relating to Galloway's Employment CKE agrees that within ten (10) days of entry of the Consent Decree in Case No. 2:05-CV-01978 FCD PAN, CKE shall send Nkosi a letter which sets forth the dates of Galloway's employment with CKE and the positions held by Galloway.

G. **Galloway's Personnel File** CKE agrees that upon being provided with a copy of this Agreement executed by Galloway and Nkosi, CKE shall remove from Galloway's personnel file any reference to Galloway's termination, the charge of harassment and retaliation filed by Galloway and Case No. 2:05-cv-01978 FCD PAN. CKE agrees that upon receipt of a copy of this Agreement executed by Galloway and Nkosi, CKE shall modify Galloway's personnel file to reflect that the reason for Galloway's separation from employment with CKE was resignation.

2.2 **Obligations of Galloway**

A. **Provision of Release and W-9 Forms** Within ten (10) days of the entry of the Consent Decree in Case No. 2:05-cv-01978 FCD PAN, counsel for Galloway, Nkosi, shall forward a copy of this Agreement and a completed Internal Revenue Service W-9 form executed by Nkosi and Galloway to counsel for CKE and the Equal Employment Opportunity Commission.

B. **Dismissal of Claims** In addition to the other obligations of Galloway set forth herein, Galloway shall cause any other suit, claim, or matter, which she has pending in her name against CKE and its employees, to be dismissed with prejudice in their entirety.

C. **Covenant Not to Sue** Galloway agrees that she will not file, nor permit to be filed on her behalf, or assist in the prosecution of, any claim, charge, complaint, lawsuit or legal action or other process of any kind or nature whatsoever, with any court, agency, board, panel, department, organization or other entity concerning any claim which is released pursuant to this Agreement.

D. Indemnification - The Parties agree that the payments set forth in section 2.1 of this Agreement constitute a compromise of all claims that Galloway has against CKE and the other Releasees. Galloway acknowledges that she will seek the further advise and counsel of her tax attorneys and/or accountants, and that the obligation to accurately report and eventually pay all appropriate taxes on all of the settlement amounts is hers alone, notwithstanding the allocation requested by Galloway herein. In the event that some or all of the payment set forth in section 2.1(C)(1)(B) and 2.1(C)(2) are asserted to be classified as taxable income by a federal, state or other taxing authority, Galloway covenants and agrees that she will be solely liable for any and all taxes, interests and penalties payable on said amount and that Galloway shall indemnify and hold harmless CKE and the Releasees from any claims, demands, actions, causes of action, attorneys fees, costs, penalties, interest and/or expenses arising out of or in any way related to the tax treatment of any or all of the payments set forth in sections 2.1(C)(1)(B) and 2.1(C)(2) of this Agreement.

E. No Reapplication/No Rehire/No Reemployment Galloway acknowledges and agrees that she will not apply for or seek, either directly or indirectly, will not be hired for and will not maintain any position of employment with CKE and/or, as applicable, its parents, subsidiary, former, successor or affiliated entities.

F. Confidentiality Except as specifically authorized by a term of this Agreement, Galloway hereby acknowledges that the amount of the settlement should remain confidential. Notwithstanding this provision, Galloway may disclose the amount or terms of this settlement to her attorneys, accountants and/or tax advisors, and to

governmental taxing authorities, as may be necessary for Galloway to comply with applicable law. In addition, this Confidentiality Provision shall not be construed to prohibit Galloway from complying with a lawful court order or process requiring disclosure, written or oral, nor shall Galloway be prohibited from revealing or disclosing any fact or circumstance which is a matter of public record and is contained in either the complaint filed by the EEOC, in the Consent Decree entered into by the EEOC and CKE and entered by the court, or in the press release issued by the EEOC announcing the resolution of the case.

- G. **Non-Disparagement** Galloway acknowledges that her claims against CKE have been amicably resolved. Galloway and CKE agree to refrain from disparaging each other.

III.

GENERAL RELEASE AND WAIVER OF CLAIMS

- 3.1 **Full and Complete Release by Galloway** For and in consideration of the obligations above described, Galloway, for herself, and on behalf of her agents, attorneys, representatives, successors and assigns, forever releases and discharges CKE and, as applicable, its owners, shareholders, partners, respective agents, representatives, successors, assigns, employees, officers, directors, attorneys, parent, subsidiary and affiliated entities ("Releasees") from any and all claims, demands, debts, liabilities, attorneys' fees, accounts, obligations, costs, expenses, liens, actions, causes of action (at law, in equity, or otherwise), rights, rights of action, rights of indemnity (legal or equitable), rights to subrogation, rights to contribution and remedies of any nature

whatsoever, known or unknown (except for those arising as a result of a breach of any provision of this Agreement), including, but not limited to any actions relating to her employment with CKE and/or the conclusion of that employment, termination in violation of public policy, claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the California Fair Employment and Housing Act, claims for racial harassment and retaliation, intentional infliction of emotional distress, breach of implied contract, breach of the covenant of good faith and fair dealing, or any federal, state or local law or regulation prohibiting employment discrimination or regulating employment.

3.2 Knowing and Voluntary Waiver of Unknown Claims Galloway understands that the releases provided for in this Agreement extend to all claims whether or not claimed or suspected, up to and including the date of execution hereof, and constitute a waiver of each and all of the provisions of California Civil Code section 1542, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Galloway hereby acknowledges that the effect and import of this provision has been fully explained to her and that she is aware of its contents and legal effect. Galloway expressly waives any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle or common

law, which is similar, comparable, or equivalent to California Civil Code section 1542.

IV.

MISCELLANEOUS PROVISIONS

- 4.1 **Waiver of Undue Influence** This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of either of the Parties, or of any other person, firm, or other entity. Galloway acknowledges and agrees that she has not in any way relied on any silence by CKE or Releasees in entering into this Agreement or the Consent Decree. Each party to this Agreement further acknowledges and agrees that they have all the information they desire before entering into this Agreement, and that they had the opportunity to consult with an attorney of their choosing prior to entering into this agreement.
- 4.2 **Entire Agreement** This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto are hereby merged herein. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreement not specifically referred to herein or contained herein oral or otherwise shall be deemed to exist or to bind any of the parties hereto.
- 4.3 **Further Necessary Actions** All Parties hereto agree, on the demand of the other party hereto, to execute or deliver any instrument, furnish any information or perform any other

act reasonably necessary to carry out the provisions of this Agreement without undue delay or expense.

- 4.4 **Severability** Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms or provisions shall not be affected thereby and said illegal, unenforceable or invalid part, term, or provision shall be deemed not to be part of this Agreement. In lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
- 4.5 **Successors** This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives, separately and collectively.
- 4.6 **Governing Law** This Agreement is entered into pursuant to the laws of the State of California and shall be interpreted pursuant to those laws.
- 4.7 **Counterparts** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument. A legible executed facsimile may be used in lieu of an original.
- 4.8 **Authority** Each party entering into this Agreement warrants that they have the authority to enter into this Agreement.
- 4.9 **Waiver of Costs and Attorneys' Fees** It is expressly understood and agreed that each party shall bear its own attorneys' fees and costs.

4.10 **Ownership of Claims** Galloway represents and agrees that she has not signed, assigned, or transferred, or attempted to assign or transfer to any person or entity, any of the claims she is releasing in this Agreement.

GALLOWAY ACKNOWLEDGES THAT SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND IS VOLUNTARILY ENTERING INTO IT WITH THE INTENTION OF RELINQUISHING ALL CLAIMS AND RIGHTS, KNOWN AND UNKNOWN, OTHER THAN THOSE THAT ARISE AS A RESULT OF THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this General Release and Settlement Agreement on the dates set forth.

DATED: _____

Carl Karcher Enterprises, Inc.

By:

Charles A. Seigel
Senior Vice President and General Counsel

DATED: 9/14/05

Michal Galloway

APPROVED AS TO FORM AND CONTENT:

DATED: 9/14/05

LAW OFFICES OF MICHAEL D. NKOSI

By: _____ WSBA # 20220
MICHAEL DANKOSI
ATTORNEYS FOR MICHAL GALLOWAY

DATED: 12/2/05

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: Robert L. Wenzel
ROBERT L. WENZEL
ATTORNEYS FOR CKE

4.10 Ownership of Claims Galloway represents and agrees that she has not signed, assigned, or transferred, or attempted to assign or transfer to any person or entity, any of the claims she is releasing in this Agreement.

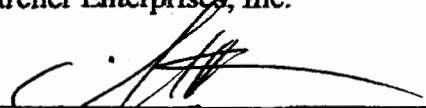
GALLOWAY ACKNOWLEDGES THAT SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND IS VOLUNTARILY ENTERING INTO IT WITH THE INTENTION OF RELINQUISHING ALL CLAIMS AND RIGHTS, KNOWN AND UNKNOWN, OTHER THAN THOSE THAT ARISE AS A RESULT OF THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this General Release and Settlement Agreement on the dates set forth.

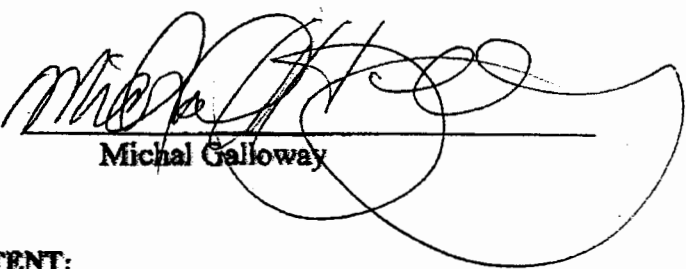
DATED: 12/1/05

Carl Karcher Enterprises, Inc.

By:


Charles A. Seigel III
Senior Vice President and General Counsel

DATED: 9/14/05

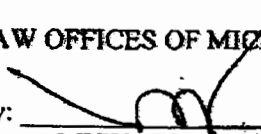

Michal Galloway

APPROVED AS TO FORM AND CONTENT:

DATED: 9/14/05

LAW OFFICES OF MICHAEL D. NKOSI

By:

 WSBA # 20220
MICHAEL D. NKOSI
ATTORNEYS FOR MICHAL GALLOWAY

DATED: _____

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By:

ROBERT L. WENZEL
ATTORNEYS FOR CKE

Form W-9
(Rev. January 2005)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Name (as shown on your income tax return) MICHAEL C. HARRIS-GAUDWAY

Business name, if different from above _____

Check appropriate box: Individual Sole proprietor Corporation Partnership Other _____ Exempt from backup withholding

Address (number, street, and apt. or suite no.) 4699 Kittredge St Apt 233

City, state, and ZIP code Denver, Colorado 80239

List account number(s) here (optional) _____

Requester's name and address (optional) _____

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number 5710994178

or

Employer identification number _____

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4).

Sign Here Signature of U.S. person [Signature] Date 9/14/05

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

- The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
- The treaty article addressing the income.
- The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

Form **W-9**
 (Rev. January 2005)
 Department of the Treasury
 Internal Revenue Service

**Request for Taxpayer
 Identification Number and Certification**

Give form to the requester. Do not send to the IRS.

Name (as shown on your income tax return)
The Poverty Law Center

Business name, if different from above

Check appropriate box: Individual/Sole proprietor Corporation Partnership Other Exempt from backup withholding

Address (number, street, and apt. or suite no.)
P.O. Box 2582

City, state, and ZIP code
Charleston, VA 23831

List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

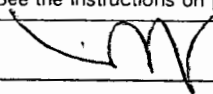
Social security number
 _____ or
 Employer identification number
91-1748342

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person  Date **11/10/05**

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

- The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
- The treaty article addressing the income.
- The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

EXHIBIT B

Consent Decree
CIV. NO. 2:05-CV-01978 FCD PAN

Form W-9
(Rev. November 2005)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**

Give form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

| | |
|--|--|
| Name (as shown on your income tax return) | |
| Business name, if different from above | |
| Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor | <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶ |
| <input type="checkbox"/> Exempt from backup withholding | |
| Address (number, street, and apt. or suite no.) | Requester's name and address (optional) |
| City, state, and ZIP code | |
| List account number(s) here (optional) | |

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

| | | | | | | | | |
|------------------------|--|--|--|--|--|--|--|--|
| Social security number | | | | | | | | |
| | | | | | | | | |

or

| | | | | | | | | |
|--------------------------------|--|--|--|--|--|--|--|--|
| Employer identification number | | | | | | | | |
| | | | | | | | | |

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

| | | |
|------------------|----------------------------|--------|
| Sign Here | Signature of U.S. person ▶ | Date ▶ |
| | | |

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
 - A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
 - Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.
- Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.
- The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:
- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules regarding partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

| IF the payment is for . . . | THEN the payment is exempt for . . . |
|--|--|
| Interest and dividend payments | All exempt recipients except for 9 |
| Broker transactions | Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker |
| Barter exchange transactions and patronage dividends | Exempt recipients 1 through 5 |
| Payments over \$600 required to be reported and direct sales over \$5,000 ¹ | Generally, exempt recipients 1 through 7 ² |

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.socialsecurity.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

| For this type of account: | Give name and SSN of: |
|---|---|
| 1. Individual | The individual |
| 2. Two or more individuals (joint account) | The actual owner of the account or, if combined funds, the first individual on the account ¹ |
| 3. Custodian account of a minor (Uniform Gift to Minors Act) | The minor ² |
| 4. a. The usual revocable savings trust (grantor is also trustee) | The grantor-trustee ¹ |
| b. So-called trust account that is not a legal or valid trust under state law | The actual owner ¹ |
| 5. Sole proprietorship or single-owner LLC | The owner ³ |
| For this type of account: | Give name and EIN of: |
| 6. Sole proprietorship or single-owner LLC | The owner ³ |
| 7. A valid trust, estate, or pension trust | Legal entity ⁴ |
| 8. Corporate or LLC electing corporate status on Form 8832 | The corporation |
| 9. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| 10. Partnership or multi-member LLC | The partnership |
| 11. A broker or registered nominee | The broker or nominee |
| 12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity |

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules regarding partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

EXHIBIT C

**Consent Decree
CIV. NO. 2:05-CV-01978 FCD PAN**

**UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF CALIFORNIA**

U.S. Equal Employment Opportunity Commission
Plaintiff

vs.

Carl Karcher Enterprises dba Carl's Jr. Restaurants
Defendant

CASE NUMBER 2:05-CV-01978 FCD PAN

CLAIM FORM

MUST BE POSTMARKED NO LATER THAN June 16, 2006

Instructions: Please complete this Claim Form only if you want to participate in the settlement and claim your share of the settlement fund. The deadline for mailing this claim form is June 16, 2006.

PART I -- PERSONAL INFORMATION

Please legibly print the following information:

Name (first, middle and last): _____

Home Street Address: _____

City, State, Zip Code: _____

Home Telephone Number: (____) _____

Social Security Number: _____

Please give us the name, address & telephone number of a relative or friend we can contact if we cannot reach you. (It is your responsibility to keep us informed of any change of address. If we cannot locate you, you may lose your right to receive money!):

Friend/Relative Name (first, middle and last): _____

Home Street Address: _____

City, State, Zip Code: _____

Home Telephone Number: (____) _____

PART II - - WORK BACKGROUND

1. Did you EVER work for Carl's Jr. Restaurant under a name other than the name listed above?

Yes No

If you answered yes, what name did you use? (first, middle and last):

2. Do you currently work for Carl's Jr. Restaurants?

Yes No

If you answered yes, when did you begin working for Carl's Jr. Restaurant?

3. Have you ever worked at the Carl's Jr. Restaurant located at 8401 Elk Grove Florin Road in Elk Grove, California (Restaurant #223)?

Yes No

4. If yes, please list the dates you worked at Carl's Jr. Restaurant located at 8401 Elk Grove Florin Road in Elk Grove, California?

5. If you no longer work for Carl's Jr. Restaurants, why did you stop working there?

RACIAL HARASSMENT

6. Do you believe you were subjected to racial harassment by James Teteak while working at the Carl's Jr. Restaurant located at 8401 Elk Grove Florin Road in Elk Grove, California?

Yes No

Please describe all incidents where you were subjected to racial harassment by James Teteak:

RETALIATION

7. Do you believe you suffered retaliation while employed at the Carl's Jr. Restaurant located at 8401 Elk Grove Florin Road in Elk Grove, California for opposing or protesting racial harassment by James Teteak, or for assisting someone who complained of racial harassment by James Teteak?

Yes No

Please describe all incidents where you were subjected to retaliation for complaining about racial harassment by James Teteak.

Please describe how these incidents of retaliation affected your employment with Carl's Jr. Restaurant.

DAMAGES

8. Please state if the incidents of racial harassment and/or retaliation described above affected you emotionally, and if so describe how.

9. Please state if the incidents of racial harassment and/or retaliation described above affected you financially, and if so describe how.

10. If you no longer work for Carl's Jr. Restaurants have you worked since that time? If so, please give dates of employment, and wages earned.

11. Did you make any complaints to Carl's Jr. Restaurants or any government agency regarding racial harassment by James Teteak or retaliation for complaining about racial harassment by James Teteak?

Yes No

If your answer is yes, please describe, including the names of the people or agency to whom you complained and dates to the extent possible.

12. Do you have any documents related to your claim of racial harassment or retaliation?

Yes No

If your answer is yes, please attach copies. You do not need to have documents to have a valid claim.

I, (print name) _____, declare under penalty of perjury that the information I have provided on this form or any supplemental sheets submitted with this form are true and correct to the best of my knowledge and if called upon to testify regarding my statements I would do so as stated herein.

Signature

Date

MAILING INSTRUCTIONS

Please mail this completed Claim Form to the Equal Employment Opportunity Commission at the address listed below. Your completed and signed claim form must be postmarked on or before June 16, 2006 or else you will forfeit your claim for a portion of the settlement fund.

EEOC v. CKE Claims
U.S. Equal Employment Opportunity Commission
350 The Embarcadero, Suite 500
San Francisco, CA 94015
Telephone Number (415) 625-5651

EXHIBIT D

Consent Decree
CIV. NO. 2:05-CV-01978 FCD PAN

WHAT IS RACIAL HARASSMENT?

Racial harassment is a form of discrimination that violates federal law, Title VII of the Civil Rights Act of 1964. Racial harassment includes, but is not limited to, the following conduct:

- (1) Verbal Conduct: Ethnic slurs, racial "jokes," offensive or derogatory comments, or other verbal or physical conduct based on an individual's race/color.
- (2) Visual conduct: Making racial gestures; displaying racially offensive objects, pictures, cartoons, graffiti or posters.
- (3) Physical conduct: Unwanted gesturing or threats based on race;
- (4) Other conduct: offensive or unwanted racially offensive telephone calls, E-mails or voice mail messages, notes or letters.

As settlement of the racial harassment and retaliation charges made against it, Carl Karcher Enterprises dba Carl's Jr. Restaurants has agreed to pay a total of \$255,000.00 in damages. \$150,000.00 of this amount has been designated to compensate certain employees who suffered racial harassment by James Teteak or retaliation for complaining about racial harassment by James Teteak during employment with Carl Karcher Enterprises between **February 23, 2001 and October 10, 2002** for its Carl's Jr. Restaurant located at 8401 Elk Grove Florin Road in Elk Grove, California. If you believe you suffered racial harassment by James Teteak while working at Carl's Jr. Restaurant, you should fill out the form enclosed with this letter, or call one of the numbers below for assistance. **To be eligible for money, your form must be received by the EEOC or its designated agent or postmarked by June 16, 2006!**

WHAT IS RETALIATION?

Federal law also prohibits retaliation against employees for having opposed or rejected racial harassment, or for having assisted someone who complained of racial harassment. Retaliation can include harassment and mistreatment, being given less work or being transferred to an undesirable job, disciplinary actions such as warnings or suspensions, and termination. The settlement of the racial harassment and retaliation charges against Carl Karcher Enterprises includes a fund to compensate individuals who suffered retaliation based on actions they took to oppose racial harassment by James Teteak. If you believe you suffered retaliation for having opposed or rejected racial harassment by James Teteak, or for assisting a person who complained of racial harassment by James Teteak, you should fill out the form enclosed with this letter, or call one of the numbers below for assistance. **To be eligible for money, your form must be received by the EEOC or its designated agent or postmarked by June 16, 2006! Call for the location of the EEOC office or agent nearest you.**

FOR MORE INFORMATION, CALL TOLL FREE: 1-800-669-4000

EXHIBIT E

Consent Decree
CIV. NO. 2:05-CV-01978 FCD PAN

RELEASE AGREEMENT

This Release Agreement ("Release Agreement") is made and entered into by and between _____ ("Eligible Claimant") and Carl Karcher Enterprises, Inc. ("CKE"). (Eligible Claimant and CKE are collectively referred to herein as the "Parties").

I.

GENERAL RECITALS

This Release Agreement is made for the following purposes and with reference to the following facts:

- 1.1 Purpose** The purpose of this Release Agreement is to settle and compromise all disputes and controversies existing between the Parties hereto, including, but not limited to any and all claims that are raised or might have been raised by Eligible Claimant against CKE relating to racial harassment by James Teteak and/or retaliation for complaining about such racial harassment. This Release Agreement supplements the Consent Decree entered into by the Equal Employment Opportunity Commission ("EEOC") and CKE, which is necessary to properly resolve and settle the complaint for racial harassment and retaliation filed by the Equal Employment Opportunity Commission, Case Number 2:05-CV-01978 FCD PAN. Pursuant to sections V(3)(B) through (F) of the Consent Decree, Eligible Claimant has been determined by the EEOC to be entitled to payment of \$_____ from the Settlement Fund established pursuant to the Consent Decree in that Eligible Claimant has asserted that he/she was subjected to harassment by James Teteak and/or subjected to retaliation for complaining about such harassment. The consent decree entered into in Case No. 2:05-CV-01978 FCD PAN, a

copy of which is attached as Exhibit "1" to this Release Agreement, is referred to as the "Consent Decree".

II.

SETTLEMENT OBLIGATIONS

2.1 Obligations of CKE

A. **Payment to Eligible Claimant** Subject to Eligible Claimant's compliance with the terms of this Release Agreement, CKE will pay to Eligible Claimant the amount determined by the EEOC under Section V(3)(F) of the Consent Decree to be the Final Gross Settlement Amount due to Eligible Claimant, \$_____. This is the total amount that CKE will pay to Eligible Claimant.

- 1) **Time and Form of Payments to Eligible Claimant** Within fourteen (14) days of CKE's receipt of the Release Agreement and W-9 form relating to payment from the Settlement Fund executed by Eligible Claimant, CKE shall forward a check drawn in the Final Gross Settlement Amount to Eligible Claimant at the address of the Eligible Claimant provided by the EEOC.
- 2) CKE shall prepare and distribute 1099 tax reporting forms to Eligible Claimant and shall make appropriate reports to the Internal Revenue Service and other tax authorities in accordance with the information provided by Eligible Claimant on the Internal Revenue Service W-9

forms. Eligible Claimant's 1099 form shall be mailed to Eligible Claimant.

- B. Non-Admission of Liability or Wrongdoing.** CKE and the Releasees have denied and continue to deny any violation of any law, contract or public policy or any other wrongdoing whatsoever and any liability to Eligible Claimant. CKE and the Releasees specifically deny and disclaim any liability to or wrongful acts against Eligible Claimant or any other person. This Release Agreement shall not in any way be construed as an admission by CKE or the Releasees of any liability or wrongdoing, whatsoever, or as an admission by CKE or the Releasees that they have acted wrongfully in any way with respect to Eligible Claimant or any other person, or as an admission by CKE or the Releasees that Eligible Claimant or any other person has any rights whatsoever against CKE or the Releasees.

2.2 Obligations of Eligible Claimant

- A. Provision of Release and W-9 Forms** - Upon receipt of notification from the Equal Employment Opportunity Commission, of the Notification of the Final Gross Settlement Amount, this Release Agreement and the Internal Revenue Service W-9 form pursuant to Section V(3)(F) of the Consent Decree, Eligible Claimant shall forward a copy of this Release Agreement and a completed Internal Revenue Service W-9 form executed by Eligible Claimant to counsel for CKE.
- B. Covenant Not to Sue** Eligible Claimant agrees that he/she will not file, nor permit to be filed on his/her behalf, or assist in the prosecution of, any claim,

charge, complaint, lawsuit or legal action or other process of any kind or nature whatsoever, with any court, agency, board, panel, department, organization or other entity concerning any claim which is released pursuant to this Release Agreement.

C. Indemnification - The Parties agree that the payments set forth in section 2.1 of this Agreement constitute a compromise of all claims relating to harassment by James Teteak and/or retaliation for complaining about harassment by Teteak that Eligible Claimant has against CKE and the other Releasees. Eligible Claimant acknowledges that he/she will seek the further advise and counsel of his/her tax attorneys and/or accountants, and that the obligation to accurately report and eventually pay all appropriate taxes on all of the settlement amounts is his/hers alone, notwithstanding the allocation herein. In the event that some or all of the payment set forth in section 2.1 is asserted to be classified as taxable income by a federal, state or other taxing authority, Eligible Claimant covenants and agrees that he/she will be solely liable for any and all taxes, interests and penalties payable on said amount and that Eligible Claimant shall indemnify and hold harmless CKE and the Releasees from any claims, demands, actions, causes of action, attorneys fees, costs penalties, interest and/or expenses arising out of or in any way related to the tax treatment of any or all of the payments set forth in sections 2.1 of this Agreement.

D. Confidentiality Except as specifically authorized by a term of this Release Agreement, Eligible Claimant hereby acknowledges that the amount of the payment under this Release Agreement should remain confidential.

Notwithstanding this provision, Eligible Claimant may disclose the amount or terms of this settlement to her attorneys, accountants and/or tax advisors, and to governmental taxing authorities, as may be necessary for Eligible Claimant to comply with applicable law. In addition, this Confidentiality Provision shall not be construed to prohibit Eligible Claimant from complying with a lawful court order or process requiring disclosure, written or oral, nor shall Eligible Claimant be prohibited from revealing or disclosing any fact or circumstance which is a matter of public record and is contained in either the complaint filed by the EEOC, in the Consent Decree entered into by the EEOC and CKE and entered by the court, or in the press release issued by the EEOC announcing the resolution of the case.

III.

GENERAL RELEASE AND WAIVER OF CLAIMS

- 3.1 **Full and Complete Release by Eligible Claimant** For and in consideration of the obligations above described, Eligible Claimant, for him/herself, and on behalf of his/her agents, attorneys, representatives, successors and assigns, forever releases and discharges CKE and, as applicable, its owners, shareholders, partners, respective agents, representatives, successors, assigns, employees, officers, directors, attorneys, parent, subsidiary and affiliated entities ("Releasees") from any and all claims, demands, debts, liabilities, attorneys' fees, accounts, obligations, costs, expenses, liens, actions, causes of action (at law, in equity, or otherwise), rights, rights of action, rights of indemnity (legal or equitable), rights to subrogation, rights to contribution and remedies of any nature whatsoever, known or unknown (except for those arising as a result of a breach of any

provision of this Release Agreement), relating to harassment of Eligible Claimant by James Teteak and/or retaliation for complaining about harassment by James Teteak.

3.2 Knowing and Voluntary Waiver of Unknown Claims Eligible Claimant understands that the releases provided for in this Agreement extend to all claims whether or not claimed or suspected, up to and including the date of execution hereof, and constitute a waiver of each and all of the provisions of California Civil Code section 1542, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Eligible Claimant hereby acknowledges that the effect and import of this provision has been fully explained to him/her and that he/she is aware of its contents and legal effect. Eligible Claimant expressly waives any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle or common law, which is similar, comparable, or equivalent to California Civil Code section 1542.

IV.

MISCELLANEOUS PROVISIONS

4.1 Waiver of Undue Influence This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of either of the Parties, or of any other

person, firm, or other entity. Eligible Claimant acknowledges and agrees that he/she has not in any way relied on any silence by CKE or Releasees in entering into this Agreement or the Consent Decree. Each party to this Agreement further acknowledges and agrees that they have all the information they desire before entering into this Agreement, and that they had the opportunity to consult with an attorney of their choosing prior to entering into this agreement.

4.2 Entire Agreement This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto are hereby merged herein. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreement not specifically referred to herein or contained herein oral or otherwise shall be deemed to exist or to bind any of the parties hereto.

4.3 Further Necessary Actions All Parties hereto agree, on the demand of the other party hereto, to execute or deliver any instrument, furnish any information or perform any other act reasonably necessary to carry out the provisions of this Agreement without undue delay or expense.

4.4 Severability Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms or provisions shall not be affected thereby and said illegal, unenforceable or invalid part, term, or provision shall be deemed not to be part of this Agreement. In lieu thereof, there shall be added a provision

as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

4.5 Successors This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives, separately and collectively.

4.6 Governing Law This Agreement is entered into pursuant to the laws of the State of California and shall be interpreted pursuant to those laws.

4.7 Counterparts This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument. A legible executed facsimile may be used in lieu of an original.

4.8 Authority Each party entering into this Agreement warrants that they have the authority to enter into this Agreement.

4.9 Waiver of Costs and Attorneys' Fees It is expressly understood and agreed that each party shall bear its own attorneys' fees and costs.

4.10 Ownership of Claims Eligible Claimant represents and agrees that he/she has not signed, assigned, or transferred, or attempted to assign or transfer to any person or entity, any of the claims he/she is releasing in this Release Agreement.

ELIGIBLE CLAIMANT ACKNOWLEDGES THAT HE/SHE HAS READ THIS RELEASE AGREEMENT, UNDERSTANDS IT AND IS VOLUNTARILY ENTERING INTO IT WITH THE INTENTION OF RELINQUISHING ALL CLAIMS AND RIGHTS RELEASED BY THIS AGREEMENT, KNOWN AND UNKNOWN, OTHER THAN THOSE THAT ARISE AS A RESULT OF THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this General Release and Settlement Agreement on the dates set forth.

DATED: _____ Carl Karcher Enterprises, Inc.

By: _____
Charles A. Seigel
Senior Vice President and General Counsel

DATED: _____

Eligible Claimant