

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

PLAINTIFF,

v.

EGS ELECTRICAL GROUP, L.L.C. and  
DEFENDANT.

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CIVIL ACTION NO. 4:05-cv-2945

JURY TRIAL DEMANDED

**CONSENT DECREE**

Plaintiff, the United States Equal Employment Opportunity Commission (“Commission”) and Defendant, EGS Electrical Group, L.L.C. (“Defendant” or “EGS”) agree to entry of this Consent Decree. Wherever the term “Defendant” is used in this Consent Decree it shall be limited to the Houston, Texas facility unless otherwise noted.

**I. Background and History of Proceedings**

A. Charging Parties Karen Barfield (“Barfield”) and April Harrison (“Harrison”), (collectively called “Charging Parties”) filed charges of discrimination with the Commission (Charge Nos. 330-2005-00030 and 330-2005-00408) alleging Defendant violated the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.* (“Title VII”). Ms. Harrison subsequently amended her charge to allege that Defendant unlawfully transferred and demoted her in retaliation for opposing unlawful wage disparity and because she filed a charge of discrimination.

B. On August 22, 2005, after investigating the Charges and finding discrimination, the Commission commenced this action alleging that Defendant’s

conduct constituted wage discrimination on the basis of sex in violation of Section 206 of the Equal Pay Act and Section 703(a) of Title VII and retaliation against Ms. Harrison in violation of Section 215 of the Equal Pay Act and Section 704 of Title VII.

C. Defendant denied the allegations of wage discrimination on the basis of sex and retaliation. Defendant additionally asserted its actions were in compliance with the Equal Pay Act and Title VII and made in good faith.

D. The parties wish to avoid the risks, uncertainties and expenses of continued litigation. Accordingly, the parties have agreed to settle this lawsuit. Defendant's consent to the entry of this Decree and the terms set forth in it shall not constitute or be construed as an admission of any Equal Pay Act or Title VII violation. The parties agree that this Consent Decree is being entered into for the sole purpose of compromising disputed claims without the necessity for protracted litigation.

E. The Commission and Defendant stipulate to the jurisdiction of the Court and the satisfaction of all administrative prerequisites. The parties further waive hearing, appeal, and entry of findings of fact and conclusions of law on all issues and as to all parties.

**IT IS ORDERED:**

1. This Consent Decree is entered in full and complete settlement of any and all claims arising out of or asserted in Civil Action No. H-05-2945 and the above-referenced Charges on behalf of Karen Barfield and April Harrison. This Consent Decree remains in effect for eighteen (18) months from the date of entry ("Consent Period") and is solely applicable to Defendant's Houston, Texas location. The Charging Parties will separately sign a release and waiver of all

claims and non-disclosure agreement based upon the same consideration set forth in the consent decree.

## **II. Injunctive Relief**

2. During the Consent Period, Defendant's Houston based management employees agree they will not engage in any employment practices which discriminate against any individual with respect to compensation in employment because of such individual's sex in violation of the Equal Pay Act or Title VII and will not retaliate against any individual who has opposed a gender based wage discrimination practice made an unlawful employment practice under the Equal Pay Act or Title VII or who has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under the Equal Pay Act or Title VII related to gender based wage discrimination.

3. During the Consent Period, on an annual basis, Defendant will provide, as to its Houston location, using either an attorney or an independent experienced training person or group, a live and interactive program on the illegality of employment discrimination regarding wage decisions based on sex. Such training shall include a discussion of the law relating to the Equal Pay Act and Title VII as said statutes relate to gender based wage discrimination and retaliation for reporting the same to all human resources professionals and management level and above employees. The minimum duration of each training shall be one (1) hour. The first such training shall be completed by November 1, 2007 or within six (6) months from the date the Consent Decree is entered, whichever is later. Defendant shall submit to the EEOC, each year at

least thirty days in advance of the program, for the EEOC's approval, the name of the program provider and an outline indicating the information to be addressed during the program and copies of all agendas and materials to be distributed at the training seminar. The person administering the training shall have at least five years of experience in labor and employment law. The presenter must be approved by the EEOC through its counsel. The EEOC's approval will not be unreasonably withheld and will be assumed if Defendant does not receive EEOC's written objections no later than fifteen (15) days prior to the date of the scheduled training. Written acknowledgment of receipt of the training shall be obtained by Defendant from all individuals attending the training and retained among the employment records of Defendant and also copies of sign in sheets shall be forwarded to the EEOC within one month of the delivery of the training.

4. During the Consent Period, Defendant agrees that when placing job advertisements for the positions for inside sales/customer service at its Houston location, it shall state that it is an equal employment opportunity employer. Pictorial ads, if any, should feature a female.

### **III. Relief for Charging Parties**

5. Defendant agrees to pay the total sum of FORTY-FIVE THOUSAND AND NO/100 DOLLARS (\$45,000.00), less legally required tax deductions, in full and final settlement of the Commission's lawsuit to provide monetary relief to Karen Barfield. Said sum shall be paid within twenty (20) days from the date of entry of the Decree. Defendant shall mail or deliver the settlement check to Ms. Barfield at the address provided by the Commission to Defendant or deliver said check in

person. Within seven (7) days, a copy of the check disbursed to Barfield shall be mailed to the Commission's undersigned counsel of record.

6. Defendant agrees to pay the total sum of FORTY-FIVE THOUSAND AND NO/100 DOLLARS (\$45,000.00), less legally required tax deductions, in full and final settlement of the Commission's lawsuit to provide monetary relief to April Harrison. Said sum shall be paid within twenty (20) days from the date of entry of the Decree or deliver said check in person. Defendant shall mail or deliver the settlement check to Ms. Harrison at the address provided by the Commission to Defendant. Within seven (7) days, a copy of the check disbursed to Ms. Harrison shall be mailed to the Commission's undersigned counsel of record.
7. The sum payable to the Charging Parties may be subject to federal income tax. Defendant agrees to issue appropriate Internal Revenue Service Forms to Charging Parties for all sums paid pursuant to this Consent Decree not later than January 31, 2008.
8. Defendant agrees that within ten (10) days after entry of this Decree, it will remove from Charging Parties' personnel files any documents referencing their charges of discrimination, the Commission's lawsuit or this Consent Decree entered in resolution of the lawsuit to the extent any such documents are in the personnel files. These documents shall not be part of their personnel files but shall be kept segregated in separate, confidential folders.
9. Defendant agrees that within fifteen (15) days from the date of entry of the Consent Decree, Karen Barfield's and April Harrison's salaries will be increased to \$52,700.00, the same salary as the male comparator, with a deduction of no

more than \$4,000.00 as a result of the difference in Harrison's pension benefits. Defendant agrees that they will not reduce the salary of the male comparator during the Consent Period based upon his participation in this suit; however, nothing stated herein shall prevent Defendant from reducing the salary of the male comparator for legitimate, non-discriminatory reasons.

10. Defendant's Houston management shall notify Harrison of any open inside sales/customer service position(s) during the consent period before such position(s) is posted. It is understood and agreed that the salary and benefits paid for such position(s) will be based on business issues, including, but not limited to, level of open position(s), skills and abilities and the legal or operational entity that has the opening.
11. Further, Defendant agrees to investigate the possibility of changing Harrison's reporting relationship based upon business needs and employee relations considerations.
12. Defendant will not discharge Charging Parties as a result of their filing charges of discrimination or participating in the Commission's lawsuit against Defendant. If, during the Consent Period, Defendant involuntarily terminates either of the Charging Parties for any reason, Defendant shall submit a written report of any such discharge to the Commission's undersigned counsel within ten (10) days of the discharge. The report shall include the basis for the discharge, explanation of the underlying basis for the discharge, and the names, titles and telephone numbers of all persons participating in the decision resulting in the

discharge. The EEOC, at its option and upon five (5) days notice to Defendant's counsel, may discuss the discharge with any person participating in such decision in person or by telephone. Defendant's counsel will be allowed to be present during any such discussion.

#### **IV. Postings**

13. Defendant agrees that within ten (10) days after entry of this Decree, it will conspicuously post the attached notice (Exhibit "A") in an area accessible to all employees at its Houston, Texas facility for the duration of the Decree.

#### **V. Reporting**

14. During the Consent Period, Defendant will provide to the EEOC, on an annual basis, a copy of all written complaints of gender based wage discrimination, gender based wage disparity or retaliation related to gender based wage complaints made by any employee at the Houston location and shall describe its investigation of the complaint, the results of the complaint and describe any pay changes made or disciplinary action imposed as a result of its investigation. The documents provided to the EEOC shall also identify the name and title of the persons involved in the complaint and investigation.
15. Once during the Consent Period, Defendant agrees to provide the Commission with a report containing the name, gender, and salary of all persons in inside sales positions at the EGS Houston facility and said report shall be submitted on or before November 1, 2008.

**VI. Effect of the Decree**

16. This Consent Decree shall be binding on Defendant and all of Defendant's successors-in-interest, and Defendant will notify all such successors-in-interest of the existence and terms of this Consent Decree.
17. During the Consent Period, the Court shall retain jurisdiction to assure compliance with this Decree and to permit entry of such further orders or modifications as may be appropriate. The Commission is specifically authorized to seek Court-ordered enforcement of this Decree in the event of a breach of any of the provisions herein.
18. The Commission agrees that, in the event the Commission believes Defendant is in violation of any provision of this Consent Decree, the Commission shall notify Defendant, through their undersigned counsel, of such violation and afford Defendant the opportunity to remedy as may be appropriate any such alleged violation within 30 days of such notice, before instituting any legal action to enforce such provision(s).
19. Nothing in this Consent Decree shall be construed to preclude the Commission from filing a separate action under Equal Pay Act, Title VII or any other statute which the Commission enforces in the future for any alleged violations by Defendant not resolved by this Decree.
20. Each party to this action shall bear their own costs and attorney's fees.
21. Each signatory certifies that she is authorized to execute this document on behalf of the party whom she represents.



Signed this 24<sup>th</sup> day of May, 2007 at Houston,

Texas.



Stephen W. Smith  
Stephen W. Smith  
United States Magistrate

**AGREED AND CONSENTED TO:**

ATTORNEY FOR PLAINTIFF  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

ATTORNEY FOR DEFENDANT  
EGS ELECTRICAL GROUP L.L.C.

By: /s/ Kathy D. Boutchee by permission ALM

Kathy D. Boutchee  
TBN: 02717500  
SDN: 10145  
Aimee L. McFerren  
Kentucky Bar No.: 89912  
SDN: 36953  
Equal Employment Opportunity  
Commission  
1919 Smith Street, 7<sup>th</sup> Floor  
Houston, Texas 77002  
(713) 209-3399  
Fax: (713) 209-3402

By: /s/ Susan L. Bickley by permission ALM

Susan L. Bickley  
TBN:02298150  
SDN: 6869  
Abrams Scott & Bickley, L.L.P.  
700 Louisiana Street, Suite 4000  
Houston, Texas 77002  
(713) 228-6601  
Fax: (713) 228-6605