

Honorable Marsha J. Pechman

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JUN 13 2005

AT SEATTLE
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WESTERN DISTRICT OF WASHINGTON DEPUTY
BY



04-CV-02045-ORD

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

HUNTLEIGH USA CORP.,

Defendant.

CIVIL ACTION NO. CV04-2045

CONSENT DECREE
AND [Proposed] ORDER OF
DISMISSAL

I. INTRODUCTION

1. This action originated with a charge of discrimination filed by Thomas Martin with the Equal Employment Opportunity Commission ("EEOC"), alleging violations of Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 ("ADA").

2. The EEOC investigated this charge and issued a Determination on April 7, 2004, finding reasonable cause to believe that Huntleigh USA (Huntleigh or Defendant) discriminated against Thomas Martin, a qualified individual with a disability, when it failed to provide a reasonable accommodation to him and then terminated him because of his disability.

3. The EEOC filed this lawsuit in the United States District Court for the Western District of Washington on October 3, 2004. EEOC alleges that Huntleigh violated the ADA by

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1 subjecting Mr. Martin to unlawful discriminatory practices.

2 4. The Commission and Huntleigh want to fully and finally conclude all claims arising
3 out of the above charge without the expenditure of further resources and expenses in contested
4 litigation. They agree that entry of this Consent Decree will be in the interest of the parties and
5 will further the objectives of the anti-discrimination provisions under the ADA.

6 II. JURISDICTION AND VENUE

7 5. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343
8 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans
9 with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference
10 Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1)
11 and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §
12 1981a. The employment practices alleged to be unlawful were committed within the jurisdiction
13 of the United States District Court for the Western District of Washington at Seattle.

14 III. NON-ADMISSION OF LIABILITY

15 6. This Consent Decree is not an adjudication or finding on the merits of this case and
16 shall not be construed as an admission by Huntleigh of a violation of the ADA.

17 IV. PURPOSE OF THE AGREEMENT

18 7. The parties have entered into this Consent Decree in order to achieve the following
19 purposes:

- 20 a. To assure the implementation of policies and procedures which prohibit
21 Huntleigh from discriminating and retaliating against employees because of their
22 disability. Huntleigh also agrees not to retaliate against any employee who
23 complains about discrimination or participates in the investigation of a complaint.
24 b. To assure that Huntleigh implements and promotes an anti-discrimination
25 policy and complaint procedure to effectively prevent disability discrimination

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1 and to address and correct such alleged disability discrimination.

2 c. To assure that Thomas Martin is compensated for alleged losses suffered in
3 connection with his employment by Huntleigh.

4 d. To avoid time, expense and uncertainty of further litigation.

5 V. GENERAL PROVISIONS

6 9. This Consent Decree is intended to and does effectuate the full, final, and complete
7 resolution of all allegations of unlawful employment practices and discrimination encompassed
8 by the original discrimination charge and the Complaint filed in EEOC v. Huntleigh USA Corp.,
9 Civil No. CV 04-2045.

10 10. This Consent Decree constitutes the complete understanding between the EEOC and
11 Huntleigh with respect to matters herein. It is expressly agreed that if EEOC concludes that
12 Huntleigh has failed to comply with this Consent Decree, the Commission may bring an action in
13 the United States District Court for the Western District of Washington to enforce the Consent
14 Decree as provided in paragraph 21 below.

15 VI. MONETARY RELIEF

16 11. Huntleigh agrees to pay Thomas Martin \$25,000.00, representing all monetary
17 damages and costs sought through the EEOC's complaint and Mr. Martin accepts said amount in
18 full resolution of all claims made in the Complaint.¹

19 VII. INJUNCTIVE RELIEF

20 A. Compliance with the ADA

21 12. Huntleigh reaffirms its commitment to comply with the ADA and other federal anti-
22 discrimination statutes. In furtherance of the commitment, Huntleigh will comply with the
23 affirmative obligations of this Consent Decree. Huntleigh agrees that it will not discriminate
24

25 ¹ Of the total amount \$10,000.00 represents compensation for Mr. Martin's back pay and \$15,000.00
represents emotional distress damages.

1 against any employees because of their disability in any employment decision.

2 13. Huntleigh will not retaliate against any employee for making a charge of
3 discrimination or for testifying, assisting, or participating in any investigation, proceeding, or
4 hearing associated with this lawsuit.

5 14. In recognition of its obligations under the ADA, Huntleigh will institute the policies
6 and practices set forth below.

7 **B. Policy Against Discrimination**

8 15. Huntleigh, at its Sea-Tac facility, shall carry out anti-discrimination policies,
9 procedures, and training for employees, supervisors, and management personnel, to the extent not
10 already established, and will provide equal employment opportunities for all employees.
11 Huntleigh will work with its managers and supervisors in order to prevent discrimination in
12 employment under the ADA, and to ensure that its managers and supervisors understand its
13 Equal Employment Opportunity policies and how those policies define and identify what
14 constitutes disability discrimination. A written copy of Huntleigh EEO policy has been
15 distributed to all present employees and will be distributed to all future employees.

16 **C. Training**

17 16. Huntleigh will develop and present to its managers and supervisors at the Sea-Tac
18 airport facility a minimum of one (1) hour of ADA training each year during the duration of this
19 Consent Decree. The cost of the training shall be borne by the company. Huntleigh will advise
20 the Commission of the person who will conduct the training.

21 17. The training will focus on conducting individualized assessments of employees with
22 disabilities and handling requests for reasonable accommodation. The first training shall take
23 place within in sixty (60) days after entry of this Consent Decree.

24 18. Huntleigh will retain a record of the training programs, including dates held and
25 persons who attend. A copy of these records of training materials shall be submitted to the

1 EEOC in accordance with section D below.

2 D. Reporting

3 19. One year following the entry of this decree and for two years thereafter, Huntleigh
4 will report to the EEOC Seattle District Office. The report will contain the following
5 information:

6 a. Certification of the completion of the minimum one (1) hour of training conducted
7 each year for the duration of this Consent Decree, with a list of attendees, as provided in
8 paragraph 18.

9 b. Certification that its EEO policy has been distributed to all current and newly hired
10 employees;

11 c. A list of any changes, modifications, revocations or revisions to its EEO policies and
12 procedures which concern or affect the subjects of discrimination based on disability and
13 reasonable accommodation; and

14 d. A summary of all complaints of disability based discrimination, if any, which have
15 been lodged by any applicant or current or former employee at the Huntleigh Sea-Tac facility
16 internally, through a grievance system, or with any governmental agency, concerning
17 employment practices, and the resolution of each complaint.

18 E. Records

19 20. Huntleigh will remove any information related to Thomas Martin's termination,
20 discrimination charge or lawsuit in his personnel file and will not add any information or
21 references regarding any charge of discrimination or this lawsuit to Mr. Martin's personnel File.

22 F. Posting of Notice

23 21. Within sixty (60) days after entry of this Consent Decree, Huntleigh will post a copy
24 of the Notice of Settlement (Attachment 1) in an area at Sea-Tac Airport and Huntleigh's office
25 on International Boulevard where the Defendant posts information on employment policies and

1 other pertinent employee information, and will maintain this posting for the duration of the
2 Consent Decree.

3 VII. ENFORCEMENT

4 23. If the EEOC concludes that Huntleigh has breached this agreement, it may bring an
5 action in the United States District Court of the Western District of Washington to enforce this
6 Consent Decree. Before bringing an action for breach of the decree, the EEOC shall first give
7 Huntleigh thirty (30) days notice of the perceived breach. The EEOC and Huntleigh shall use
8 that 30-day period for good faith efforts to resolve the matter.

9 IX. RETENTION OF JURISDICTION

10 24. The United States District Court of the Western District of Washington shall retain
11 jurisdiction over this matter for the duration of the Consent Decree.

12 X. DURATION AND TERMINATION

13 25. This decree shall be in effect three (3) years, commencing with the date the decree is
14 filed. If the EEOC petitions the court for breach of agreement, and the court finds Huntleigh to
15 be in violation of the terms of the Consent Decree, the Court may extend this Consent Decree for
16 a reasonable period of time.

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XI. CONCLUSION

26. The provisions of this Consent Decree are not binding on the parties until and authorized representative of each party signs and the Court enters the Consent Decree. The forgoing terms and conditions are agreed upon and stipulated to the ___ 8th ___ day of ___ June ___, 2005.

Respectfully submitted,

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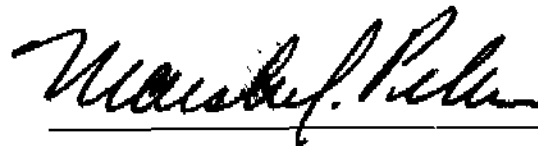
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ORDER APPROVING CONSENT DECREE AND DISMISSING ACTION

The Court having considered the foregoing stipulated agreement of the parties, HEREBY ORDERS THAT the foregoing settlement agreement is approved as the final decree of this Court in full settlement action. This lawsuit is hereby dismissed with prejudice and without cost or attorneys' fees to any party. The Court retains jurisdiction of this matter solely for purposes of enforcing the Consent Decree approved herein.

DATED this 13 day of June, 2005



UNITED STATES DISTRICT JUDGE



NOTICE TO EMPLOYEES

THIS NOTICE HAS BEEN POSTED PURSUANT TO AN ORDER OF THE COURT, ENTERED ON _____, APPROVING THE CONSENT DECREE ENTERED IN RESOLUTION OF A LAWSUIT BROUGHT BY THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) AGAINST HUNTLEIGH USA CORP. IN THE WESTERN DISTRICT OF WASHINGTON. THE CONSENT DECREE RESOLVES EEOC'S CLAIMS OF DISABILITY DISCRIMINATION AGAINST HUNTLEIGH USA CORP. AND ENJOINS THE COMPANY FROM CONDUCT PROHIBITED BY LAW. HUNTLEIGH USA CORP. AFFIRMS ITS COMMITMENT TO COMPLIANCE WITH LAWS PROHIBITING DISABILITY DISCRIMINATION.

FEDERAL LAW ALSO PROHIBITS RETALIATION AGAINST ANY INDIVIDUAL BY AN EMPLOYER BECAUSE THE INDIVIDUAL COMPLAINS OF DISCRIMINATION, COOPERATES WITH ANY HUNTLEIGH USA CORP. OR GOVERNMENT INVESTIGATION OF A CHARGE OF DISCRIMINATION, PARTICIPATES AS A WITNESS OR POTENTIAL WITNESS IN ANY INVESTIGATION OR LEGAL PROCEEDING, OR OTHERWISE EXERCISES HIS OR HER RIGHTS UNDER THE LAW.

ANY EMPLOYEE WHO IS FOUND TO HAVE RETALIATED AGAINST ANY OTHER EMPLOYEE BECAUSE SUCH EMPLOYEE PARTICIPATED IN THIS LAWSUIT WILL BE SUBJECT TO SUBSTANTIAL DISCIPLINE.

SHOULD YOU HAVE ANY COMPLAINTS OF DISABILITY DISCRIMINATION, YOU SHOULD CONTACT HUMAN RESOURCES AT _____.

EMPLOYEES ALSO HAVE THE RIGHT TO BRING COMPLAINTS OF DISCRIMINATION OR HARASSMENT TO THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, SEATTLE DISTRICT OFFICE AT 909 1ST AVENUE, SUITE 400, SEATTLE, WA 98104-1061, 206.220.6883, 1800.669.4000, OR THE WASHINGTON STATE HUMAN RIGHTS COMMISSION AT 711 S. CAPITOL WAY, SUITE 402, OLYMPIA, WA 98504-2490, 360.753.6770.

THIS NOTICE SHALL REMAIN PROMINENTLY POSTED AT HUNTLEIGH USA CORP. SEA-TAC FACILITY UNTIL JULY 2008. THIS OFFICIAL NOTICE SHALL NOT BE ALTERED, DEFACED, COVERED OR OBSTRUCTED BY ANY OTHER MATERIAL.