

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff)
)
v.) Civil Action No. 5-05CV0060-C
)
BROWNFIELD MOTORPLEX, INC.,)
)
Defendant.)
_____)

**PARTIES' JOINT MOTION FOR DISMISSAL AND FOR
ENTRY OF CONSENT DECREE**

COME NOW, Plaintiff Equal Employment Opportunity Commission (“EEOC”) and Defendant Brownfield Motorplex, Inc. (“Motorplex”), and file this, their Joint Motion For Dismissal And For Entry of Consent Decree in the above-captioned civil matter. In support of this Motion, the parties respectfully show the Court as follows:

Plaintiff EEOC and Defendant Motorplex have resolved, compromised, and settled all matters at issue between them in this litigation, as evidenced by their signatures on the Consent Decree attached hereto as Exhibit One.

WHEREFORE, PREMISES CONSIDERED, Plaintiff EEOC and Defendant Motorplex respectfully request that the Court enter the Consent Decree attached hereto as Exhibit One, and that the Court retain jurisdiction to enforce the terms and conditions as set forth in the Consent Decree.

Dated: March 15, 2006__

Respectfully submitted,

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Deputy General Counsel

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s/ R. Lynn Fielder _____
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s/ Leticia Dominguez _____
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Equal Employment Opportunity
Commission

EL PASO AREA OFFICE
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ATTORNEYS FOR PLAINTIFF

EXHIBIT ONE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff)	
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v.)	Civil Action No. 5-05CV0060-C
)	
BROWNFIELD MOTORPLEX, INC.,)	
)	
Defendant.)	
)	

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission (“EEOC”) and Defendant Brownfield Motorplex, Inc. (“Brownfield Motorplex”). This Consent Decree resolves the above-referenced Civil Action No. 5-05CV0060-C. Plaintiff EEOC initiated this lawsuit pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621 et seq. (the “ADEA”), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, (the “FLSA”) as amended, 29 U.S.C. §§216(c) and 217.

Plaintiff’s Complaint in this lawsuit asserted unlawful employment practices on the basis of age, and sought to provide relief to Mike Hobbs, who was adversely affected by those employment practices. More specifically, Mr. Hobbs is sixty years old, and Plaintiff EEOC alleged, in its Complaint, that he was subjected to discrimination, in violation of the ADEA, when he was discharged from his employment at Brownfield Motorplex, Inc., because of his age.

Defendant denies having discriminated against Mike Hobbs, because of his age, and contends that it has not engaged in any unlawful employment practices.

Plaintiff EEOC and Defendant Brownfield Motorplex wish to settle this Action, without the necessity of further litigation, pursuant to the terms delineated in this Decree.

IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the filing of this action have been met.
2. This Consent Decree resolves all issues raised in Plaintiff EEOC's Complaint in this case. Plaintiff EEOC waives further litigation of all issues raised in the above-referenced Complaint. The EEOC expressly reserves its right, however, to process and litigate any other charges which may now be pending, or may in the future be filed against Defendant Brownfield Motorplex.
3. The duration of this Consent Decree shall be three years from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Consent Decree, and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of its provisions. Any violation of this Consent Decree by Defendant Brownfield Motorplex, or its agents or assigns, shall toll the running of this three year period as of the date of the violation. If the Court subsequently determines that this Consent Decree was violated, the three year period shall recommence and continue from the date of entry of an Order setting out such a violation, or until such time as ordered by the Court.
4. Defendant Brownfield Motorplex, in settlement of this dispute, shall pay to Mike Hobbs, the sum total of \$23,750.
5. If Defendant Brownfield Motorplex resumes business within three years of the date of this Consent Decree, and is asked to provide an employment reference regarding Mike Hobbs, Defendant Brownfield Motorplex shall make no mention of the filing of the Complaint, or the underlying charge filed by Mike Hobbs.

6. If Defendant Brownfield Motorplex resumes business within three years of the date of this Consent Decree, it shall post a notice regarding its practices, policies, and intent not to discriminate or retaliate against any employee in violation of the ADEA. Such notice shall be as set forth in Exhibit "A," which is attached to this Consent Decree. A copy of Exhibit "A" shall be posted on all employee bulletin boards, and other areas where employees are likely to congregate. The notice shall remain posted for this duration of this Consent Decree.

7. If Defendant Brownfield Motorplex resumes business within three years of the date of this Consent Decree, it shall disseminate a notice to all employees re-affirming its policy to comply with all EEOC requirements, re-affirming any policy manual provision regarding the Company policy not to discriminate on the basis of age, or any other protected characteristic, and the Company policy not to retaliate against any employee who protests against discrimination, and including with said notice, a copy of Exhibit "A," requesting that each such employee sign and return an acknowledgment that they have received said notice.

8. If Defendant Brownfield Motorplex resumes business within three years of the date of this Consent Decree, it will provide every one of its management employees with equal employment opportunity compliance training which lasts at least four hours long. This training shall: (a) explain the law relating to discrimination in employment based on age, including but not limited to, discharge based on age; and (b) explain the damaging effects of discrimination based on age to victims, their families, their co-workers, and the workplace environment. In addition, the training shall teach non-discriminatory work and management techniques when interfacing or interacting with other employees, and the responsibilities of supervisory employees and human resources personnel to provide prompt and effective relief to individuals who complain of discrimination based on age.

9. The terms of this Consent Decree shall be binding upon the EEOC and Defendant Brownfield Motorplex, their agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

10. Each party shall bear its own costs, including attorneys' fees incurred in this action.

11. The parties agree that there is no prevailing party in this action or proceeding.

The Clerk shall furnish a copy hereof to each attorney of record.

SO ORDERED.

Signed this ____ day of _____, 2006.

SAM R. CUMMINGS
UNITED STATES DISTRICT JUDGE

Dated: March 15, 2006

Respectfully submitted,

ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
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ATTORNEYS FOR DEFENDANT

ATTORNEYS FOR PLAINTIFF

EXHIBIT A

NOTICE TO ALL EMPLOYEES

BROWNFIELD MOTORPLEX, INC. IS FIRMLY COMMITTED TO TREATING EMPLOYEES ACCORDING TO MERIT, WITHOUT REGARD TO THEIR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, DISABILITY, OR THEIR HAVING ENGAGED IN ACTIVITY PROTECTED BY THE AGE DISCRIMINATION IN EMPLOYMENT ACT. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT. BROWNFIELD MOTORPLEX, INC WILL SPECIFICALLY NOT TOLERATE DISCHARGES BASED ON AGE. BROWNFIELD MOTORPLEX, INC. WILL ALSO SPECIFICALLY NOT TOLERATE RETALIATION AGAINST ANY EMPLOYEE WHO PROTESTS AGAINST WHAT HE REASONABLY BELIEVES TO BE AGE DISCRIMINATION.

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, SEX, AGE, DISABILITY OR NATIONAL ORIGIN, INCLUDING BEING DISCHARGED, OR THREATENED WITH DISCHARGE, BECAUSE OF YOUR AGE, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, WHICH IS ALSO KNOWN AS THE EEOC. THE CLOSEST EEOC OFFICE IS LOCATED AT 300 E. MAIN, SUITE 500, EL PASO, TEXAS, 79901. THE PHONE NUMBER FOR THAT OFFICE IS (915) 534-6700. YOU MAY ALSO REACH THE EEOC THROUGH THE FOLLOWING 800 NUMBER: 1-800-669-4000. NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE FROM, FILING A CHARGE WITH, OR COMMUNICATING WITH THE EEOC.

THE EEOC ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN; THE AGE DISCRIMINATION IN EMPLOYMENT ACT,, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION AGAINST PEOPLE, BECAUSE THEY ARE FORTY YEARS OLD, OR OLDER, THE EQUAL PAY ACT, SECTIONS OF THE CIVIL RIGHTS ACT OF 1991, AND THE AMERICANS WITH DISABILITIES ACT, WHICH PROHIBITS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN THE WORKPLACE.