

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION

| | | |
|-------------------------------|---|------------------|
| EQUAL EMPLOYMENT OPPORTUNITY |) | |
| COMMISSION, |) | |
| |) | |
| Plaintiff, |) | CIVIL ACTION NO. |
| |) | 2:04-CV-303 |
| v. |) | |
| |) | JUDGE GREER |
| APPALACHIAN OIL COMPANY, INC. |) | |
| |) | |
| Defendant. |) | |

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission (hereinafter the "Commission") pursuant to §706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq., and Title I of the Civil Rights Act of 1991, 42 U.S.C. §1981a, against Defendant, Appalachian Oil Company, Inc., (hereinafter the "Defendant"), to remedy unlawful practices alleged in the Complaint filed in this action.

The Complaint alleges that Defendant violated Section 703(a) of Title VII, 42 U.S.C. §2000e, et seq., by discriminating against Lessia Viers and Sherylyn Dewberry because of sex (female) by subjecting them to sexual harassment in the workplace and by constructively discharging Ms. Viers. Defendant has denied all such allegations. The parties, being desirous of settling this action, stipulate to the jurisdiction of this Court.

This Consent Decree does not and shall not constitute a finding

upon the merits of the case or an admission by Defendant of any violation of Title VII or any other law, rule, or regulation dealing with or in connection with equal employment opportunities. The parties have consented to the entry of this Decree to avoid the burdens of further litigation.

The Court has reviewed the terms of the proposed Consent Decree in light of the applicable laws and regulations, the statements and representations of counsel for all parties, and hereby approves the Consent Decree.

NOW, THEREFORE, the Court being fully advised in the premises, it is hereby **ORDERED, ADJUDGED AND DECREED:**

I. SCOPE AND DURATION OF DECREE

A. This Decree resolves all claims and issues arising out of Charge No. 253-2003-01377 and the Commission's Complaint in this cause alleging unlawful employment discrimination by Defendant. This agreement shall pertain only to matters arising from the aforementioned charges and shall not be in any manner dispositive of any other charge pending before an office of the Commission.

B. The provisions of this Consent Decree will be effective on the date the Decree is entered by the Court and shall continue to be effective and binding upon the parties to this action for a period of three years from the date of the entry of this decree or until Defendant's obligations are satisfied, whichever is longer.

II. PROHIBITED PRACTICES

A. Defendant, its officers, agents, employees, and all persons acting in concert with Defendant shall not engage in any employment practice which has the purpose or effect of discriminating against any employee on the basis of sex pursuant to Title VII of the Civil Rights Act of 1964, as amended.

B. Defendant, its officers, agents, employees, and all persons acting in concert with Defendant shall not engage in any employment practice which has the purpose or effect of retaliating against any employee for participating in any proceeding under Title VII or for opposing discriminatory employment practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

III. GENERAL RELIEF

A. Within ninety (90) days of entry of this Decree for supervisory employees, and within one hundred twenty (120) days of entry for non-supervisory employees, Defendant shall conduct mandatory training in the convenience store division for the purpose of explaining and reinforcing its policy and procedure for eliminating and preventing sexual harassment in the workplace. Defendant shall inform employees that sexual harassment is strictly prohibited in the work place, punishable by disciplinary action up to and including termination; and that neither sexual harassment nor retaliation for complaining about sexual harassment will be tolerated or condoned.

B. Defendant shall retain a qualified consultant or trainer with specialized knowledge of employment law to conduct the training session for supervisory employees.

C. Defendant shall require each supervisory or management employee to record attendance at the mandatory training and to acknowledge receipt of a copy of Defendant's sexual harassment policy and procedure for reporting complaints. A copy of the signed acknowledgment shall be put in the employee's permanent personnel file.

D. Defendant shall advise each supervisory-level employee of his/her responsibility for insuring that his/her supervised area is free of sexual harassment, that company policies prohibiting employment discrimination are to be enforced, that employees are not to be harassed or singled out for ridicule or insult for reporting complaints of harassment, and that failure to perform their duties to prevent sexual harassment will result in disciplinary action up to and including termination.

IV. INDIVIDUAL RELIEF

A. In order to resolve all issues and claims of employment discrimination and resulting damages which arose or could have arisen from the charge of discrimination filed by Lessia Viers and the Complaint filed by the Commission based on her Charge No. 253-2003-01377, Defendant agrees to pay seventeen thousand dollars (\$17,000.00) in compromise of the disputed claims within seven (7) days of entry of this Decree.

B. Upon entry of this Decree, Plaintiff EEOC shall provide Defendant with the appropriate division of payments Ms. Viers and Ms. Dewberry and shall advise Defendant of correct payee information and address for each person.

C. Ms. Viers and Ms. Dewberry agree to release Defendant from claims that were or could have been brought pursuant to the allegations contained in Charge No. 253-2003-01377 and the subsequently lawsuit filed by EEOC.

V. NEUTRAL REFERENCES

Defendant agrees to provide neutral references to potential employers of Lessia Viers or Sherylyn Dewberry who may contact Defendant for job references in the future. Any such neutral reference shall be substantially identical to the form attached hereto as Exhibit A. No mention of the charge of discrimination filed by Lessia Viers, the participation of Sherylyn Dewberry in that charge, or the action filed by the Commission on behalf of these employees shall be disclosed as part of any job reference.

VI. NOTICE

A. At all times Defendant shall post and maintain at each of its store locations, in a place conspicuous and accessible to all applicants and employees, the poster summarizing pertinent provisions of Title VII required by Section 711 of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-10(a).

B. Defendant shall post and maintain at each of its store

locations, in a place conspicuous and accessible to all applicants and employees, the notice attached hereto as Exhibit B.

VII. REPORTING REQUIREMENTS

A. Within one hundred twenty (120) days of entry of this Order, Defendant shall provide the Commission with written verification that the requirements under Section III (General Relief) have been satisfied.

B. Copies of the checks to Ms. Viers and Ms. Dewberry shall be mailed to Katharine W. Kores, Regional Attorney for the Equal Employment Opportunity Commission, 1407 Union Avenue, Suite 621, Memphis, Tennessee 38104.

VIII. COMPLIANCE DISPUTES

A. EEOC and Appalachian Oil Company agree that all disputes between them regarding any provision of this Decree shall first be raised informally between them. Should either Party contend that the other Party is not in compliance with any provision of this Decree, such party shall provide the other Party with written notice. The other party will have ten (10) days from its receipt of the written notice to come into compliance or to convince the other Party that they are in compliance. If such matters are not resolved informally, after the ten-day period either Party may then bring the dispute to this Court for resolution.

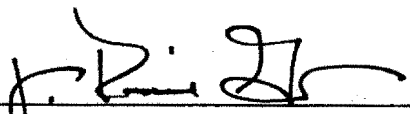
B. The Commission may petition this Court for compliance with the Decree at any time during which this Court maintains jurisdiction

over this action. Should the Court determine that Appalachian Oil has not complied with the Decree, appropriate relief, including extension of this decree for such period as may be necessary to remedy its non-compliance, may be ordered.

IX. COSTS

The parties shall bear their own costs and attorneys' fees in this action.


SO ORDERED THIS 29th DAY OF September, 2005.



RONNIE GREER, JUDGE
UNITED STATES DISTRICT COURT

BY CONSENT:

FOR DEFENDANT:




JENNIFER P. KELLER
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ
207 Mockingbird Lane
P. O. Box 3038
Johnson City, Tennessee 37602
(423) 928-0181

FOR PLAINTIFF EEOC:

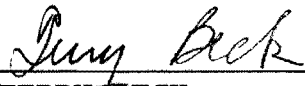
ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

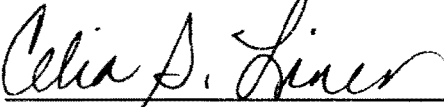
GWENDOLYN YOUNG REAMS
Associate General Counsel



KATHARINE W. KORES
Regional Attorney



TERRY BECK
Supervisory Trial Attorney



CELIA S. LINER
Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1407 Union Avenue, Suite 621
Memphis, Tennessee 38104
(901) 544-0075

Dear _____:

This letter is in response to your inquiry regarding the employment of Ms. _____ while employed at Appalachian Oil Company, Inc. Ms. _____ was employed with Appalachian Oil Company from _____ until _____ at Appco # __, in _____, Tennessee. Her last job was that of _____. Company regulations do not permit us to give out any other information concerning Ms. _____'s employment.

I hope this information is helpful and that it adequately answers your inquiry.

Very truly yours,

Title: _____
Appalachian Oil Company, Inc.

EXHIBIT A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Memphis District Office

1407 Union Avenue, Suite 621
Memphis, TN 38104
(901) 544-0115
TTY (901) 544-0112
FAX (901) 544-0111

NOTICE

This Notice is being posted as part of an agreement between the United States Equal Employment Opportunity Commission and this company.

Federal law requires an employer to maintain a workplace free from harassment based on sex (gender), as well as race, color, religion, national origin, age (40 or older), or disability with respect to working environment or terms and conditions of employment. It is also a violation of Title VII of the Civil Rights Act, 42 U.S.C. §2000e, et seq., to subject any employee to sexual harassment.

Appalachian Oil Company, Inc. agrees to continue to comply with this Federal law in all respects and will not take any action against employees or applicants for employment because they have exercised their rights under the law.

Appalachian Oil Company, Inc. does not tolerate or condone sexual harassment against any employee or applicant for employment. Sexual harassment is a violation of company policy as well as federal law. Violation of this company policy by anyone employed by Appalachian Oil Company, Inc. will result in disciplinary action up to and including termination.

Title: _____

Appalachian Oil Company, Inc.

EXHIBIT B