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11 U.S. EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 US EQUAL EMPLOYMENT
16 OPPORTUNITY COMMISSION,

DOCKET NO. CV-S-05-1205-KJD-PAL

17 Plaintiff,

18 vs.

CONSENT DECREE

19 K-T CONTRACT SERVICES,
20 INC. and CUSA K-TCS, LLC,
21 each d/b/a Coach USA; and
22 COACH USA TOURS – LAS
23 VEGAS, INC.,

24 Defendants.

I.

INTRODUCTION

25 Plaintiff Equal Employment Opportunity Commission (the “EEOC”) and
26 Defendant CUSA K-TCS, LLC, d/b/a Coach USA Tours (“CUSA”); and COACH
27 USA TOURS -Las Vegas, Inc., (“COACH”) hereby stipulate and agree to entry of this
28 Consent Decree to resolve the EEOC’s complaint, filed under Title VII of the Civil
Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (“Title VII”), alleging that:
Katherine Borane (hereinafter “Charging Party”) was discriminated against while
employed at Coach due to her pregnancy.

CUSA and Coach’s entry into and performance of the terms and conditions of

1 this Decree is not an admission of liability, any wrongful act, or any violation of law.

2 **II.**

3 **PURPOSES AND SCOPE OF THE CONSENT DECREE**

4 A. The parties to this Consent Decree ("Decree") are the EEOC, CUSA, and
5 Coach. This Decree shall be binding on and enforceable against Coach and CUSA.

6 B. The parties have entered into this Decree for the following purposes:

7 I. To avoid further expenses incident to this litigation; and

8 II. To provide a final and binding settlement upon the parties as to all
9 Title VII claims alleged by the EEOC in the Complaint filed in this action, and

10 III. To ensure compliance with obligations under Title VII.

11 **III.**

12 **RELEASE OF CLAIMS**

13 A. This Decree fully and completely resolves all issues, claims and
14 allegations by the EEOC against CUSA and Coach that are raised in the Complaint
15 filed in this action in the United States District Court, District of Nevada on June 30,
16 2004, captioned Equal Employment Opportunity Commission v. K-T Contract
17 Services, Inc., and CUSA K-TCS, LLC, each d/b/a Coach USA Tours – Las Vegas,
18 Inc.; COACH USA TOURS – LAS VEGAS, INC., CV-S-05-1205-KJD-PAL (the
19 "Complaint").

20 B. Nothing in this Decree shall be construed to preclude the EEOC, CUSA
21 or Coach from bringing a petition before the Court to enforce this Decree in the event
22 that any party hereto fails to perform the promises and representations contained
23 herein.

24 C. Nothing in this Decree shall be construed to limit or reduce CUSA or
25 Coach's obligation to comply fully with Title VII, the ADEA, or any other federal
26 employment statute.

27 D. This Decree in no way affects the EEOC's right to bring, process,
28 investigate or litigate other charges that may be in existence or may later arise against

1 CUSA or Coach in accordance with standard EEOC procedures.

2 E. This Decree constitutes the good faith, fair and equitable resolution of
3 disputed claims.

4 IV.

5 **JURISDICTION**

6 A. The Court has jurisdiction over the parties and the subject matter of this
7 lawsuit. The Complaint asserts claims that, if proven, would authorize the Court to
8 grant the equitable relief set forth in this Decree. The terms and provisions of this
9 Decree are fair, reasonable and just. This Decree conforms with the Federal Rules of
10 Civil Procedure and Title VII, and is not in derogation of the rights or privileges of
11 any person.

12 B. The Court shall retain jurisdiction of this action for the duration of the
13 Decree for the purposes of entering all orders, judgments and decrees that may be
14 necessary to implement and enforce the relief agreed to herein.

15 V.

16 **EFFECTIVE DATE AND DURATION OF DECREE**

17 A. The provisions and agreements contained herein shall become effective
18 immediately on the date on which this Decree is entered by the Court ("the Effective
19 Date").

20 B. This Decree shall remain in effect for two (2) years after the Effective
21 Date.

22 VI.

23 **MODIFICATION AND SEVERABILITY**

24 A. This Decree comprises the complete understanding of the parties with
25 respect to the matters contained herein. No waiver, modification or amendment of
26 any provision of this Decree will be effective unless made in writing, signed by an
27 authorized representative of each of the parties, and entered as an order by this Court.

28 B. If one or more provisions of this Decree are rendered unlawful or

1 unenforceable, the parties shall make good faith efforts to agree upon appropriate
2 amendments to this Decree in order to effectuate the purposes of this Decree. In any
3 event, the remaining provisions will remain in full force and effect unless the purposes
4 of this Decree cannot, despite the parties best efforts, be achieved.

5 C. By mutual agreement of the parties, this Decree may be amended or
6 modified in the interests of justice and fairness in order to effectuate the provisions of
7 this Decree.

8 VII.

9 COMPLIANCE AND DISPUTE RESOLUTION

10 A. The parties agree that if the EEOC has reason to believe that CUSA or
11 Coach has failed to comply with any provision of this Consent Decree, the EEOC may
12 bring a petition before this Court to enforce the Decree. Prior to initiating such
13 petition, the EEOC will notify Coach's legal counsel of record, in writing, of the
14 nature of the dispute. This notice shall specify the particular provisions that the
15 EEOC believes have been breached. CUSA or Coach shall have thirty (30) days after
16 receipt of the notice to attempt to resolve or cure any breach.

17 B. The parties agree to cooperate with each other and use their best efforts to
18 resolve any dispute referenced in the EEOC's notice.

19 C. After thirty days have passed with no resolution or mutual written
20 agreement to extend the time further, the EEOC may petition this Court for resolution
21 of the dispute, seeking all available relief, including an extension of the term of the
22 Decree for such period of time as Coach is shown to be in breach of the Decree, the
23 EEOC's costs and attorneys' fees incurred in securing compliance with the Decree,
24 and any other relief the Court may deem appropriate to secure compliance with the
25 Decree and any other relief the Court may deem appropriate.

26 VIII.

27 MONETARY RELIEF

28 Within ten (10) business days after the Effective Date, CUSA and Coach shall

1 jointly deliver to the named Charging Party, the lump sum of \$18,000.00. The sum
2 disbursed to Charging Party shall be considered emotional distress damages and shall
3 be reported by CUSA and Coach on IRS Form 1099 which forms shall be issued to
4 the Charging Party who shall make appropriate reports to the Internal Revenue
5 Service and other tax authorities. Within five (5) days, Coach and CUSA shall also
6 mail a copy of the check to Anna Y. Park, Regional Attorney, U.S. Equal
7 Employment Opportunity Commission at 255 East Temple Street, Fourth Floor, Los
8 Angeles, California 90012.

9 **IX.**

10 **GENERAL INJUNCTIVE RELIEF**

11 **A. Non-Discrimination**

12 **1. Discrimination Based on Sex**

13 CUSA and Coach, their officers, agents, management (including all supervisory
14 employees), successors, assigns, and all those in active concert or participation with
15 them, or any of them, hereby agree not to: (a) discriminate against persons on the
16 basis of sex (pregnancy) in the terms and conditions of employment; and (b) engage in
17 or be a party to any action, policy or practice that is intended or is known to them to
18 have the effect of discrimination or intimidating any employee on the basis of her sex;
19 and (c) create, facilitate or permit the existence of a work environment that is hostile
20 to employees due to their sex (pregnancy).

21 **2. Retaliation**

22 CUSA and Coach, their officers, agents, management (including all supervisory
23 employees), successors, assigns, and all those in active concert or participation with
24 them, or any of them, hereby agree not to engage in, implement or permit any action,
25 policy or practice with the purpose of retaliating against any current or former
26 employee or applicant of Coach or CUSA, or either of them, because he or she has in
27 the past, or during the term of this Decree: (a) opposed any practice made unlawful
28 under Title VII; (b) filed a charge of discrimination alleging such practice; (c) testified

1 or participated in any manner in any investigation (including without limitation, any
 2 internal investigation undertaken by Coach or CUSA), proceeding in connection with
 3 this case and/or relating to any claim of a Title VII violation; (d) was identified as a
 4 possible witness or claimant in this action; (e) asserted any rights under this Decree; or
 5 (f) sought and/or received any relief in accordance with this Decree.

6 **B. Policies and Procedures**

7 CUSA shall maintain those policies and procedures as follows:

- 8 1. its procedures to handle complaints of discrimination;
- 9 2. revise and implement its anti- discriminatory policy and reporting
 10 procedure to effectively carry out its obligations under this Decree;
- 11 3. train managerial and staff/hourly employees on their rights and
 12 responsibilities under Title VII, including but not limited to the responsibilities to
 13 provide a workplace free of discrimination;
- 14 4. train all employees on policies and procedures relating to
 15 pregnancy discrimination;
- 16 5. investigate all complaints of discrimination;
- 17 6. ensure that CUSA properly communicates with complainants
 18 regarding the complaint procedure, status of the complaint/investigation, results of the
 19 investigation, and whether remedial action was taken;
- 20 7. ensure that all reports required by this Decree are accurately
 21 compiled and timely submitted;
- 22 8. create appropriate and consistent disciplinary policies to hold
 23 employees and managers accountable for failing to take appropriate action and/or for
 24 engaging in conduct prohibited under this Decree;
- 25 9. create a centralized system of tracking discrimination complaints;
- 26 and
- 27 10. further ensure compliance with the terms of this Decree.

1 **C. Revision of Policies Concerning Discrimination**

2 CUSA shall revise its policy on discrimination and provide a copy to the
3 Commission within ninety (90) days after the Effective Date. The revised policy shall
4 include:

- 5 1. A clear explanation of prohibited conduct;
- 6 2. A clearly described complaint process that provides accessible and
7 confidential avenues of complaint with contact information including address, and
8 telephone number of persons both internal (i.e., human resources) and external to
9 CUSA (i.e., the EEOC and NERC) to whom employees may report discrimination.
- 10 3. Assurance that the employer will protect the confidentiality of the
11 discrimination complaints to the extent possible;
- 12 4. A complaint process that provides a prompt, thorough, and
13 impartial investigation;
- 14 5. A procedure for communicating with the complainant in writing
15 regarding the status of the complaint/investigation, results of the investigation, and
16 whether remedial action was taken; and
- 17 6. Assurance that CUSA will take immediate and appropriate
18 corrective action when it determines that discrimination has occurred.

19 This revised policy shall be distributed in English and Spanish, based upon the
20 language preference of the employee, to all of CUSA's employees, including
21 management/supervisory staff, and shall be included in the Operations Manual.
22 CUSA shall collect acknowledgments from each employee who receives the revised
23 policy, in either English or Spanish depending on the language preference of each
24 employee.

25 **D. Training**

26 Within sixty (60) days after CUSA revises and redistributes its policy on
27 discrimination pursuant to Section C above, all of CUSA's managerial/supervisory,
28 human resources, and staff/hourly employees employed in Nevada shall be required to

1 attend an intensive training program of 2.0 hours for managerial employees and 1.5
2 hours for staff/hourly employees by Kim Henry, Human Resources Director –
3 Western Division, CUSA. The training shall be mandatory and occur once each year
4 for the term of this Decree. One training each year for staff/hourly employees shall be
5 conducted in Spanish for any employee for whom Spanish is the language preference,
6 and one training each year for staff/hourly employees shall be conducted in English.
7 Each staff/hourly employee shall be required to attend one training session each year,
8 in a language that each employee best understands.

9 1. All employee training shall include coverage of the subjects of
10 equal employment opportunity rights and responsibilities, discrimination, and
11 CUSA's revised policies and procedures for reporting and handling complaints of
12 discrimination.

13 2. The training of managerial employees shall additionally include
14 training on how to properly handle and investigate complaints of discrimination in a
15 neutral manner, how to take preventive and corrective measures against
16 discrimination, and how to recognize and prevent discrimination.

17 3. For the remainder of the term of this Decree, all new employees
18 and all employees recently promoted from a staff/hourly to a managerial position shall
19 receive the managerial or staff/hourly employee training, as appropriate, within thirty
20 (30) days of hire or promotion. This training may be conducted by videotaped
21 presentation.

22 4. After the initial training as specified above, all employees shall
23 receive the training annually thereafter for the remainder of the term of this Decree.

24 5. All employees required to attend such training shall verify their
25 annual attendance in writing. Any employees who fail to attend the live training shall
26 be trained within 30 days. This training may be conducted by videotaped presentation.

27 6. Within forty-five (45) days after CUSA shall submit to the EEOC
28 a description of the training to be provided and an outline of the curriculum developed

1 for the trainees, which complies with this Decree. Coach shall give the EEOC a
2 minimum of ten (10) business days advance written notice of the first annual training
3 of the date, time and location of each training program provided pursuant to this
4 Decree, and agrees that an EEOC representative may attend the training programs.

5 7. Human Resources training shall be specific to their obligations,
6 including the handling and investigating of complaints of discrimination. This
7 training shall be above and beyond the supervisor/manager training as set forth above.

8 **E. Complaint Procedure**

9 CUSA shall maintain an Internal Complaint Procedure to allow employees to
10 raise complaints relating to discrimination and retaliation. The Complaint Procedure
11 shall include:

12 1. A complainant shall not be required to first report the complaint to
13 a person who the complainant has accused of the inappropriate conduct to invoke the
14 Internal Complaint Procedure.

15 2. CUSA will maintain a policy of nondiscrimination and equal
16 treatment, including a policy of zero tolerance for unlawful discrimination, in all of its
17 employment practices.

18 3. The Internal Complaint Procedure shall inform the employee of his
19 or his right to file a charge or complaint of discrimination or retaliation under any
20 available municipal, state, or federal law. CUSA will attempt to resolve the issues
21 internally.

22 4. CUSA shall publish with the Internal Complaint Procedure the
23 following elements that will be included in the procedure:

24 a. A statement that it is unacceptable to retaliate against any
25 employee for use of the Internal Complaint Procedure, for assisting
26 in the investigation of a complaint, or for otherwise assisting in the
27 utilization of the procedure.

28 b. A statement that if an allegation of discrimination or

retaliation against a manager or other employee is substantiated, then such conduct will result in appropriate discipline, up to and including discharge.

F. Neutral Reference

Should CUSA be contacted by prospective employers at any time, CUSA shall give only the dates of employment and position held for Katherine Borane.

X.

RECORD KEEPING AND REPORTING

A. Record Keeping

CUSA shall establish a record-keeping procedure that provides for the centralized tracking of discrimination complaints and the monitoring of such complaints to prevent retaliation. The records to be maintained shall include:

A. All documents generated in connection with any complaint, investigation into, or resolution of every complaint of discrimination for the duration of the Decree and the identities of the parties involved;

B. All forms acknowledging employees' receipt of CUSA's revised discrimination policy;

C. All documents verifying the occurrence of all training sessions and names and positions of all attendees for each session as required under this Decree; and

D. Documents tracking and analyzing complaints filed against the same employee and location.

The foregoing documents shall be summarized in the annual reports set forth below.

B. Reporting

In addition to the notices to the EEOC specified above, CUSA shall provide the following reports to the EEOC in writing, by mail or facsimile:

A. Within ninety (90) days after the first presentation of CUSA's training

1 program described above, CUSA shall submit to the EEOC an initial report which
2 contains:

- 3 (a) A copy of the revised discrimination policy;
- 4 (b) A summary of the procedures and record-keeping methods for
5 centralized tracking of discrimination complaints and the monitoring of
6 such complaints;
- 7 (c) A statement confirming that the required notices pertaining to this
8 Decree and the revised discrimination and anti-retaliation policy has been
9 posted; and
- 10 (d) Copies of all employee acknowledgment forms indicating receipt
11 of the revised discrimination and anti-retaliation policy.

12 B. CUSA shall also provide the following reports semi annually for the two-
13 year period throughout the term of this Decree:

- 14 (a) The attendance lists of all attendees for all training sessions
15 required under this Decree that took place during the previous six
16 months;
- 17 (b) Acknowledgments of receipt of the revised discrimination and
18 harassment policy for all employees hired during the previous six
19 months; and
- 20 (c) A description of all discrimination and/or retaliation complaints
21 made since the submission of the immediately preceding report
22 hereunder. This description shall include the names of the individuals
23 alleging harassment or retaliation, the nature of the harassment or
24 retaliation, the names of the alleged perpetrators of harassment or
25 retaliation, the dates of the alleged harassment or retaliation, a brief
26 summary of how each complaint was resolved, and the identity of the
27 person(s) who investigated or resolved each complaint. If no results have
28 been reached as of the time of the report, the result shall be included in

1 the next report;

2 (d) An analysis of the monitoring done for repeat complaints by
3 employees and by location; and

4 (e) CUSA shall provide a report to the EEOC detailing any changes of
5 the procedures or record-keeping methods for centralized tracking of
6 discrimination complaints and the monitoring of such complaints within
7 thirty (30) days before implementing such changes.

8 **XI.**

9 **COSTS OF ADMINISTRATION AND IMPLEMENTATION** 10 **OF CONSENT DECREE**

11 CUSA shall bear all costs associated with its administration and implementation
12 of its obligations under this Consent Decree.

13 **XII.**

14 **COSTS AND ATTORNEYS' FEES**

15 Each party shall bear its own costs of suit and attorneys' fees.

16 **XIII.**

17 **MISCELLANEOUS PROVISIONS**

18 A. During the term of this Consent Decree, CUSA shall provide any
19 potential successor-in-interest with a copy of this Consent Decree within a reasonable
20 time of not less than thirty (30) days prior to the execution of any agreement for
21 acquisition or assumption of control of CUSA's Nevada facilities, or any other
22 material change in corporate structure, and shall simultaneously inform the EEOC of
23 same.

24 B. During the term of this Consent Decree, CUSA and its successors shall
25 assure that each of its officers, managers and supervisors located in Nevada are aware
26 of any term(s) of this Decree which may be related to his/her job duties.

27 C. Unless otherwise stated, all notices, reports and correspondence required
28 under this Decree shall be delivered to the attention of the Regional Attorney, Anna Y.

1 Park, U.S. Equal Employment Opportunity Commission, Los Angeles District Office,
2 255 E. Temple St., 4th Fl., Los Angeles, CA 90012.

3 D. The parties agree to entry of this Decree and judgment subject to final
4 approval by the Court.

5 E. The parties agree to sign in counterparts, and each such counterpart shall
6 be deemed an original as to the party to be charged.

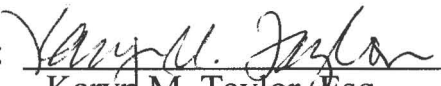
7 EQUAL EMPLOYMENT
8 OPPORTUNITY COMMISSION
9 Anna Y. Park, Regional Attorney
10 Connie K. Liem, Trial Attorney
11 Gregory L. McClinton, Trial Attorney

12 Date: 9/12/06

13 By: 
14 Anna Y. Park, Regional Attorney
15 Attorneys for Plaintiff


16 LITTLER MENDELSON

17 Date: 8/23/06

18 By: 
19 Karyn M. Taylor, Esq.
20 Attorneys for Defendants
21 CUSA K-TCS, LLC

22 JENNING STROUSS & SALMON PLC

23 Date: 8/29/06

24 By: 
25 John G. Sestak, Jr.
26 Attorney for Defendant
27 COACH, USA

28 **ORDER**

This Court having found that the foregoing Consent Decree was entered into in
good faith and that the terms of the foregoing Consent Decree are fair, reasonable, and
just, the provisions of the foregoing Consent Decree are hereby approved and
compliance with all provisions thereof is **HEREBY ORDERED. IT IS SO**

ORDERED.

Date: 9/20/06


UNITED STATES DISTRICT JUDGE



ALABAMA

ARIZONA

CALIFORNIA

September 5, 2006

Sandra Ketner
Direct: 775.785.6387
Direct Fax: 775.562.8147
sketner@littler.com

COLORADO

DISTRICT OF
COLUMBIA

VIA U.S. MAIL

Gregory McClinton, Esq.
Trial Attorney
Equal Employment Opportunity Commission
Los Angeles District Office
255 East Temple Street, 4th Floor
Los Angeles, CA 90012

FLORIDA

GEORGIA

ILLINOIS

Re: Katherine Borane v. CUSA, LLC, et al.; Case No.: CV-S-05-1205-KJD-PAL

Dear Mr. McClinton:

MASSACHUSETTS

Enclosed please find the original Consent Decree in the above-referenced matter. CUSA, LLC's and Coach USA's settlement checks will follow under separate cover within the timeframe prescribed by the Consent Decree.

MINNESOTA

NEVADA

Please do not hesitate to contact me if you have any questions or concerns regarding this matter.

NEW JERSEY

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Ketner". The signature is fluid and cursive.

Sandra Ketner

NEW YORK

NORTH CAROLINA

cc: Jack Sestak, Esq.

OHIO

PENNSYLVANIA

Firmwide: 814.579.41.1 046923.1034
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RHODE ISLAND

SOUTH CAROLINA

TEXAS

WASHINGTON