

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	)	
<b>COMMISSION,</b>	)	
	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
v.	)	<b>Civil Action No. 1:05CV627</b>
	)	
<b>THE BROWN PUBLISHING</b>	)	
<b>COMPANY,</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**CONSENT DECREE**

**INTRODUCTION**

A. This action was instituted by the United States Equal Employment Opportunity Commission (the "EEOC" or the "Commission") on September 27, 2005, against The Brown Publishing Company ("Brown Publishing") under Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991 ("Title VII"). The EEOC alleged that Defendant Brown Publishing discriminated against its former employee, William Hubbard, on the basis of his race, Black, by subjecting him to a racially hostile work environment and terminated him based on his race, Black. In response to the Complaint filed by the EEOC, Brown Publishing filed an Answer to the Complaint in which it categorically denied each and every claim alleged by the EEOC.

B. In the interest of resolving this matter, and as a result of having engaged in comprehensive negotiations, the parties have agreed that this action should be finally resolved by entry of this Decree. This Decree and compliance with this Decree shall not be construed as an admission by Brown Publishing of any liability whatsoever, or as an admission by Brown Publishing of any violation of the rights of Hubbard or of any other person, violation of any order and/or law regarding Hubbard or any person, or violation of any order, law, statute, duty or breach

of any contract or any act of discrimination whatsoever against Hubbard or any other person.

C. This Consent Decree is entered into by the EEOC and Brown Publishing. This Consent Decree shall be final and binding between the EEOC and Brown Publishing, its directors, officers, agents, employees, successors or assigns and all persons in active concert or participation with it, (hereinafter collectively referred to as "Brown Publishing" or "Defendant").

D. The Commission and Defendant do hereby agree to the entry of this Consent Decree, which shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 1:05-CV-627, including back pay, front pay, liquidated damages, pre-judgment and post-judgment, interest, injunctive relief, attorney's fees and costs arising out of or relating to said Civil Action. This Consent Decree shall not constitute an adjudication of or finding on the merits of the case and shall not be construed as a violation of Title VII by Defendant.

### **ORDER**

Upon consent of the parties to this action, it is hereby ORDERED, ADJUDGED and DECREED that:

#### **NON-DISCRIMINATION AND NON-RETALIATION**

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. Defendant is enjoined for the duration of this Decree from engaging in any employment practice which constitutes unlawful discrimination under Title VII. Specifically, Brown Publishing is enjoined from creating, fostering or tolerating a work environment which discriminates based on race.
3. Brown Publishing is enjoined from engaging in any employment practices which retaliate in any manner against any person, including but not limited to, William Hubbard, because of that person's opposition to any practice alleged or believed to be unlawful under Title VII, or because of the filing of a charge, the giving of testimony or assistance, or the participation in any

manner in any investigation, hearing or proceeding under Title VII.

4. Brown Publishing shall not divulge, directly or indirectly, except as required by law, or in response to a lawful subpoena or other legal process, to any employer or potential employer of William Hubbard, any of the facts or circumstances related to the charge of discrimination against Brown Publishing, or any of the events relating to his participation in the litigation of this matter.

5. Brown Publishing shall expunge from the personnel files of William Hubbard, any documents, pleadings, correspondence and related papers pertaining to the charge of discrimination filed by Mr. Hubbard with the Commission.

6. Brown Publishing shall comply fully with all provisions of Title VII for the duration of this Decree. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of Defendant under Title VII or the EEOC's authority to process or litigate any charge of discrimination which may be filed against Brown Publishing in the future.

#### **MONETARY RELIEF**

William Hubbard

7. Without admitting liability, Brown Publishing agrees to pay the sum of \$24,750.00 to William Hubbard in full settlement of the claims against Defendant which were raised in the Commission's Complaint. Brown Publishing shall send a check in the gross sum of \$24,750.00, as payment hereunder within ten (10) days after receipt of the signed Consent Decree and the Release attached as Exhibit 2. The check will be made payable to William Hubbard and mailed to William Hubbard by certified mail, return receipt requested. Brown Publishing will mail a photocopy of the check to the EEOC, to the attention of Donna L. Williams-Alexander, Trial Attorney, EEOC, within five days of issuance to Mr. Hubbard. A late payment will be subject to the accrual of interest on the unpaid amount, calculated pursuant to 28 U.S.C. § 1961. If Brown Publishing does

not make the payment as designated in the manner set forth in this Paragraph, the Court will enter a judgment for the entire amount remaining due, plus attorneys fees, costs, and interest to be paid at the legal rate, compounded daily.

**POSTING OF NOTICE**

8. Within ten (10) business days after entry of this Decree, or as soon as practicable, thereafter, but no later than thirty (30) business days, thereafter, Brown Publishing agrees to post same-sized copies of the Notice attached as Exhibit I to this Decree on all bulletin boards located at its Xenia, Ohio, location, usually used by Brown Publishing for communicating with employees. The notice shall remain posted for six (6) months from the date of entry of this Decree. Counsel for Brown Publishing shall provide a copy of the Notice, and an indication of the date and locations of its posting(s), to the EEOC's Cleveland, Ohio Field Office, attention: Donna L. Williams-Alexander, within ten (10) days of the posting(s). Brown Publishing shall permit a representative of the EEOC to enter Defendant's Xenia, Ohio premises for purposes of verifying compliance with this Paragraph at any time during normal business hours after ten (10) days written notice to Peggy M. Barker of Kohnen & Patton. Defendant shall take all reasonable steps to ensure that the posting(s) are/is not altered, defaced or covered by any other material. Should the posted notice(s) become defaced, removed, marred, or otherwise illegible, Defendant agrees to as soon as practicable post a readable copy in a manner as described herein.

**NON-DISCRIMINATION AND ANTI-HARASSMENT  
POLICIES AND COMPLAINT PROCEDURES**

9. Brown Publishing represents that it maintains and will continue to maintain written policies concerning race discrimination, harassment and retaliation that conform with applicable law. Brown Publishing represents that its written policies substantially conform with a)-e) below:

(a) Is drafted in plain and simple language and states a strong and commitment to a work place free of race discrimination, harassment and retaliation, or other violation of Title VII;

(b) States that a failure to follow Brown Publishing's policy against unlawful race discrimination, harassment and retaliation will not be tolerated;

(c) Include a complaint procedure designed to encourage employees to come forward with complaints regarding violations of its policy or policies against discrimination, harassment and retaliation, and identify specific individual(s) and telephone number(s) to whom employees may report complaints about unlawful race discrimination, harassment or retaliation. Provide assurances that complainants shall not be subjected to retaliation. Provide an assurance of non-retaliation for persons who report their belief that they have been subjected to unlawful race discrimination, harassment or retaliation and for witnesses;

(d) Provide an assurance that Brown Publishing will investigate allegations of unlawful discrimination, harassment and/or retaliation; and

(e) Provide for consequences up to and including discharge of an employee or supervisor who violates the policy.

10. The Policy shall be distributed to all of its employees and newly-hired employees at its Xenia, Ohio location, within 90 days after entry of this Consent Decree.

11. Within 90 days after entry of this Consent Decree, Brown Publishing agrees to advise Donna Williams-Alexander, that its policy or policies against discrimination, harassment and retaliation have been distributed to current employees either in written or electronic form and that new employees will receive these policies and an opportunity to acknowledge receipt. Brown Publishing will retain copies of any acknowledgment of receipt form for an employee in the employee's personnel file.

12. Brown Publishing agrees that it will, twice annually for the duration of the Consent Decree send a copy of its policy or policies against discrimination, harassment and retaliation to its employees either in written or electronic form.

## MANAGEMENT ACCOUNTABILITY

13. Brown Publishing shall promote management and/or supervisor accountability by the following conduct:

- (a) Providing annual anti-discrimination training to all of its supervisory and managerial personnel as set forth in Paragraph 14;
- (b) Disciplining, up to and including discharge, any supervisor or manager who violates Defendant's policy or policies against discrimination, harassment and retaliation;
- (c) Imposing on all managers and supervisory personnel a duty to administer their work areas to ensure compliance with Brown Publishing's policy or policies against discrimination, harassment and retaliation; and
- (d) Requiring all managers and supervisors to report any incidents and/or complaints of harassment and/or retaliation of which they become aware to the appropriate responsible officials.

## TRAINING

14. For the duration of this Decree, Brown Publishing agrees to provide training regarding an employee's rights under Title VII, and the employer's obligations under Title VII, with an emphasis on what constitutes unlawful harassment and differential treatment of minority employees in the workplace, how to keep Brown Publishing free of such forms of discrimination, and what constitutes unlawful retaliation on the following terms:

- a. Brown Publishing agrees to provide consultation and training sessions to all of its employees, managers and supervisors who work at its Xenia, Ohio location by conducting a live training seminar each year;
- b. During each training session, the General Manager, Regional Director, or in-house counsel, will make a live or videotaped statement regarding the severe consequences of unlawful race discrimination, harassment or retaliation and emphasizing Brown Publishing's commitment to

prevent discrimination and harassment; and

c. The first training session shall take place within six months of entry of this Consent Decree. Brown Publishing shall then also provide such training annually for the duration of this Decree.

15. Defendant agrees to provide the EEOC with any and all copies of pamphlets, brochures, outlines or other written materials provided to the participants of the training sessions.

16. Brown Publishing agrees to certify to the EEOC in writing within five (5) business days after the training sessions have occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (i) the dates, location and duration of the training session; (ii) a copy of the registry of attendance, which shall include the name and position of each person in attendance; and (iii) a listing of all current employees, including temporary employees, as of the date of the training.

#### **RECORD KEEPING**

17. For a period of two (2) years following entry of this Decree, Defendant shall maintain and make available for inspection and copying by the Commission, records of each complaint of any incident of race and/or retaliation discrimination occurring at its Xenia, Ohio location. Each such report shall indicate the date the complaint was made, who made it, what was alleged, and what actions the Defendant took to resolve the matter. The Defendant shall also make records of all actions it takes to prevent race and retaliation discrimination at its Xenia, Ohio location during the duration of this Decree.

18. Defendant shall make all documents or records referred to in Paragraph 17 above, available for inspection and copying within ten (10) business days after the EEOC so requests. In addition, Defendant shall make available for interview all persons within its employ whom the EEOC reasonably requests for purposes of verifying compliance with this Decree and shall permit a

representative of the Commission to enter Defendant's Xenia, Ohio premises for such purposes with ten (10) business days' advance notice by the EEOC to Peggy Barker of Kohnen & Patton.

19. Nothing contained in this Decree shall be construed to limit any obligation Defendant may otherwise have under Title VII or any other law or regulation.

### **REPORTING**

20. Defendant shall furnish to the EEOC the following written reports annually for a period of two (2) years following entry of this Decree. The first report shall be due six (6) months after entry of the Decree. The final report shall be due twenty-four (24) months after entry of the Decree. Each such report shall contain:

a. A summary of the information recorded by Defendant pursuant to Paragraph 17, including the name of the complainant, the allegation of the complaint and the action taken by Defendant in response; and

b. A certification by Defendant that the Notice required to be posted in Paragraph 8, above, remained posted during the entire six (6) month period required under Paragraph 8.

### **DISPUTE RESOLUTION**

21. In the event that the EEOC believes that Brown Publishing has failed to comply with any provision(s) of the Decree, the EEOC shall notify Brown Publishing and Peggy Barker of Kohnen & Patton by fax and First Class Mail at the address and fax number shown in connection with her signature below, of the alleged non-compliance within twenty (20) days of the alleged non-compliance and shall afford Brown Publishing twenty (20) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance within twenty (20) business days, the complaining party may apply to the Court for appropriate relief.

### **MISCELLANEOUS PROVISIONS**

22. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.

23. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of Defendant in their capacities as representatives, agents, directors and officers of Defendant, and not in their individual capacities. This Paragraph shall not be construed as placing any limit on remedies available to the Court in the event that any individual is found to be in contempt for a violation of this Decree.

24. This Consent Decree shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 1:05-CV-627.

25. This Consent Decree shall be filed in the United States District Court for the Southern District of Ohio and shall continue to be in effect for a period of two (2) years. Any application by any party to modify or vacate this Consent Decree during such period shall be made by motion to the Court on no less than thirty (30) days notice to the other party.

26. The Court retains jurisdiction over this case in order to enforce the terms of the Consent Decree for the duration of the Decree.

27. This Decree shall expire by its own terms at the end of twenty-four (24) months from the date of entry, without further action by the Parties.

28. The Clerk of the District Court is hereby directed to send a file-stamped copy of this Consent Decree to counsel of record.

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SANDRA S. BECKWITH, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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