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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity
Commission,

Plaintiff,

V.
HealthHelp, Inc.,

Defendant,
Janis Hagy, Carolyn Johnson, and
Arlene Warren,
Intervenor Plaintiffs.

Janis Hagy, et al.,
Plaintiffs,

V.
HealthHelp, Inc.,
Defendant.

CIV 03-1204 PHX RGS
CIV 03-1216 PHX RGS

CONSENT DECREE

The United States Equal Employment Opportunity Commission (the
“Commission” or “EEOC”) filed this action against HealthHelp, Inc. (“HealthHelp”
or “Defendant”) to enforce Title VII of the Civil Rights Act of 1964, the Civil Rights
Act of 1991. In the Complaint, the Commission alleged that Arlene Warren,

1 Carolyn Johnson and Janis Hagy were retaliated against when they opposed
2 discriminatory actions on the part of HealthHelp, Inc. and were terminated.
3 HealthHelp answered, alleging there was nothing discriminatory about its conduct
4 and the three former employees were terminated due to sound business reasons.

5 In the interest of resolving this matter, and as a result of having engaged in
6 comprehensive settlement negotiations, the Parties have agreed that this action
7 should be finally resolved by entry of this Decree.

8 The Parties do not object to the jurisdiction of the Court over this action and
9 waive their rights to a hearing and the entry of findings of fact and conclusions of
10 law.

11 It is hereby **ORDERED, ADJUDGED AND DECREED:**

12 1. This Decree resolves all claims of the Commission against Defendant,
13 including back pay, compensatory and punitive damages, interest, injunctive
14 relief, attorney's fees, and costs arising out of the issues in this lawsuit.

15 **INJUNCTION**

16 2. Defendant and its officers, agents, employees, successors, assigns, and all
17 persons in active concert or participation with it, both at the time that this Decree
18 becomes effective and for the duration of this Decree, are permanently enjoined
19 for the duration of the Decree from retaliating against any employee because he
20 or she: (i) opposes or opposed discriminatory practices made unlawful by Title
21 VII; (ii) files or filed a charge of discrimination or assists, assisted, participates, or
22 participated in the filing of a charge of discrimination; or (iii) assists, assisted,
23 participates or participated in an investigation or proceeding brought under the
24 Federal or State laws prohibiting discrimination or retaliation. .

25 **MONETARY RELIEF**

26 3. Defendant shall pay a settlement in the amount of \$450,000.00, to be
27 divided and distributed as set forth in Exhibit A. The payments will be made by
28 check no later than ten days from the Court's entry of the Consent Decree. The

1 checks shall be mailed to the addresses provided by the Commission. Within
2 three business days of the issuance of the checks, Defendant shall submit a copy
3 of the checks and all related correspondence to Mary Jo O'Neill, Regional
4 Attorney, Equal Employment Opportunity Commission, 3300 North Central
5 Avenue, Suite 690, Phoenix, Arizona 85012.

6 4. These payments represent settlement of compensatory damages and
7 attorney fees in the amounts set forth in Exhibit A. Defendant will issue United
8 States Internal Revenue Service Forms 1099 for the compensatory damages
9 and attorney fees for the tax year during which payment is made.

10 5. Defendant will not condition the receipt of individual relief on Ms.
11 Warren's, Ms. Hagy's or Ms. Johnson's agreement to (a) waive their statutory
12 right to file a charge with any federal or state anti-discrimination agency for
13 actions not arising out of the same facts, or (b) waive their right to apply for a
14 position with the Defendant.

15 **OTHER RELIEF**

16 6. Defendant shall expunge from the personnel files of Ms. Warren, Ms. Hagy
17 and Ms. Johnson: (a) all references to the EEOC charges filed against
18 Defendant that formed the basis of this action; (b) all references to Ms. Warren's,
19 Ms. Hagy's and Ms. Johnson's participation in this action; (c) any derogatory
20 document which relates to complaints or investigation of complaints of retaliation
21 or discrimination; and (d) any other documents, except for routine business
22 records, relating to the termination of Ms. Warren, Ms. Hagy and Ms. Johnson.

23 7. Defendant shall institute and carry out policies and practices that help
24 assure a work environment free from retaliation. To assist Defendant in its efforts
25 to assure such a work environment, Defendant shall take the actions provided in
26 paragraphs 8 through 14 of this Decree.

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1 the seminar-training session shall be conducted between eleven (11) and thirteen
2 (13) months after the completion of the preceding session.

3 D. The seminar training sessions shall be no less than two hours,
4 plus fifteen to thirty minutes of questions and answers. All of Defendant's
5 supervisory employees shall register when they attend a seminar-training
6 session. The registry of attendance shall be retained by Defendant for the
7 duration of this Decree.

8 E. The seminars shall include: (1) the subject of what constitutes
9 discrimination and retaliation; (2) that Title VII is violated by retaliation for
10 opposing activities reasonably believed to be a violation of Title VII; and (3)
11 unlawful termination based on retaliation. The session shall also review and
12 explain Defendant's policies set out in this Decree.

13 F. During the live training sessions, Defendant's President shall
14 speak to the employees about the legal consequences faced by companies that
15 tolerate discrimination and retaliation; the importance of maintaining an
16 environment free of discrimination and retaliation, and Defendant's policies in
17 regard to discrimination and unlawful termination based on retaliation, referred to
18 in paragraph 11 of this Decree. The President shall explain that managers and
19 supervisors will be evaluated, in part, on their enforcement of policies prohibiting
20 discrimination and retaliation, and their response to complaints made under
21 those policies.

22 10. The Commission, with reasonable notice, may designate Commission
23 representatives to attend and participate in the seminar-training sessions, and the
24 representatives shall have the right to attend and fully participate in the sessions.

25 **POLICIES AND PROCEDURES**

26 11. Within sixty (60) days of the entry of this Decree, Defendant shall develop
27 written policies concerning discrimination and retaliation, to conform with the law,
28 and submit the policy for review to the Regional Attorney of the Phoenix District

1 Office of the EEOC. These written policies must include at a minimum:

2 A. A strong and clear commitment to a workplace free of
3 retaliation;

4 B. A clear and complete definition of retaliation;

5 C. A statement that retaliation is prohibited and will not be
6 tolerated;

7 D. A clear and strong encouragement of persons who believe
8 they have been subjected to retaliation to come forward;

9 E. The identification of specific individuals, with their telephone
10 numbers, to whom employees, who believe they have been subjected to
11 discrimination or retaliation, can report the unlawful conduct, including a written
12 statement that employees may report the unlawful conduct to designated persons
13 outside of their chain of management.

14 F. An assurance that Defendant will investigate allegations of
15 retaliation promptly, fairly, reasonably and effectively, using appropriate
16 investigators, and that appropriate corrective action will be taken by Defendant to
17 make victims whole and to eradicate the unlawful conduct.

18 G. A description of the consequences, up to and including
19 termination, that will be imposed upon violators of the policy;

20 H. A promise of maximum feasible confidentiality for persons who
21 believe that they have been subjected to discrimination or retaliation.

22 These policies shall be distributed to each of Defendant's current
23 employees within ninety (90) days of the entry of this Decree. These policies
24 shall be distributed to all new employees of Defendant when hired. These
25 policies also shall be posted in a prominent place frequented by the employees
26 at Defendant's workplace.

27 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

28 12. Defendant shall report in writing and in affidavit form to the Regional

1 Attorney of the Commission's Phoenix District Office, beginning six months from
2 the date of the entry of this Decree, and thereafter every year for the duration of
3 the Decree, the following information:

4 A. A copy of the revised policies required in paragraph 11 of this
5 Decree.

6 B. Any changes, modifications, revocations, or revisions to its
7 policies and procedures which concern or affect the subjects of discrimination
8 and retaliation.

9 C. The name, address, position, social security number, and
10 telephone number of any individual who has brought allegations, whether formal
11 or informal, of wage discrimination and/or unlawful termination based on sex,
12 against Defendant's personnel including, but not limited to, management officials
13 and/or non-management employees, during the first six months, and thereafter
14 every year, preceding the report to the EEOC. The nature of the complaint,
15 investigatory efforts made by Defendant, and corrective action taken, if any, also
16 shall be specified.

17 D. The registry of persons attending the seminars required in
18 paragraph 8 of this Decree and a list of current supervisory and managerial
19 personnel employed by Defendant on the days of the seminar training sessions.

20 E. Confirmation that (1) the Notice required in paragraph 8 of this
21 Decree was posted in all required languages, and the locations where it was
22 posted; (2) the policies required in paragraph 11 were distributed to each current
23 and new employee of Defendant; (3) the expungement from the personnel files of
24 Ms. Warren, Ms. Hagy and Ms. Johnson required in paragraph 6 of this Decree
25 took place, the date of the expungement, and the specific documents expunged.

26 13. The Commission, upon reasonable notice and agreement, shall have the
27 right to enter and inspect Defendant's premises and work sites to ensure
28 compliance with this Decree and the prohibitions against retaliation contained in

1 Title VII.

2 **COSTS AND DURATION**

3 14. Each Party shall bear its costs and attorney's fees incurred as a result of
4 this action through the filing of this Decree.

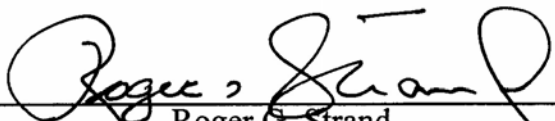
5 15. The duration of this Decree shall be twenty-four (24) months from its entry.
6 This Court shall retain jurisdiction over this action for the duration of the Decree,
7 during which the Commission may petition this Court for compliance with this
8 Decree. Should the Court determine that Defendant has not complied with this
9 Decree, the Court may order appropriate relief, including extension of this Decree
10 for such period as may be necessary to remedy its non-compliance, an award of
11 attorney's fees and costs, and fines for contempt of court.

12 16. In the event the Court concludes, upon petition of the Commission,
13 following notice to Defendant, that Defendant has violated the terms of this
14 Decree, Defendant shall pay all attorney's fees and costs incurred by the
15 Commission to enforce the Decree.

16 17. Absent extension, this Decree shall expire by its own terms at the end of
17 twenty-four (24) months from the date of entry without further action by the
18 Parties.

19 18. The Parties agree to entry of this Decree and judgment subject to final
20 approval by the Court.

21 DATED this 7th day of April, 2006.

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26 Roger G. Strand
27 Senior United States District Judge
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2 APPROVED AND CONSENTED TO:

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5 s/E. R. Mashek
6 Edward Mashek
For HealthHelp, Inc.

s/ Mary Jo O'Neill
Mary Jo O'Neill
Regional Attorney

s/Sally Shanley
Sally C. Shanley
Acting Supervisory Trial Attorney

8 s/James L. Blair
9 James Blair
10 Charles S. Hover, III
Attorney for Defendant
HealthHelp, Inc.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
3300 North Central Ave., Suite 690
Phoenix, Arizona 85012

11 RENAUD COOK DRURY MESAROS
12 PA
13 Phelps Dodge Tower, Suite 900
One N. Central Ave.
Phoenix, AZ 85004

Attorneys for Plaintiff

14
15 s/ M. E. Rake for
16 David J. Catanese
Attorney for Plaintiff-Intervenors

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Exhibit A

Carolyn Johnson	\$210,000.00, with \$40,000.00 to be paid upon entry of the decree and \$170,000.00 to be paid in four equal yearly payments commencing on March 10, 2007.
Janis Hagy	\$105,000.00
Arlene Warren	\$ 25,000.00
Rake & Catanese	\$110,000.00

Exhibit B

NOTICE TO ALL EMPLOYEES OF HEALTH HELP, INC.

This Notice is posted pursuant to a Consent Decree entered into between Health Help, Inc. and the Equal Employment Opportunity Commission (EEOC).

It is unlawful under federal law, Title VII of the Civil Rights Act and state law to discriminate against an employee on the basis of race, in the recruitment, hiring, firing, compensation, assignment, or other terms, and conditions or privileges of employment. It is also unlawful to retaliate against any person because the person protested discriminatory practices or contacted the EEOC.

Health Help, Inc. shall not discriminate against any employee on the basis of race and shall not retaliate against any employee.

You have the right to file a charge with the EEOC if you believe you are being discriminated against.

No Retaliation Clause. No action may be taken against you by any supervisory or management official of Health Help, Inc. for (1) opposing discriminatory practices made unlawful by federal or state law; (2) filing a charge or assisting or participating in the filing of a charge of discrimination; or (3) assisting or participating in an investigation or proceeding brought under Title VII.

Contact the EEOC at the addresses or telephone numbers listed below:

U.S. Equal Employment Opportunity Commission

Mickey Leland Federal Building

1919 Smith Street

Suites 600 & 700

Houston, Texas 77002-8049

Phone: 713-209-3320, 713-209-3377, or 1-800-669-4000