

FILED
U.S. DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

DEC 16 1998

Norman
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

LOEWEN GROUP INTERNATIONAL, INC.,
d/b/a MEMORY GARDENS OF THE
VALLEY,

Defendant.

CIV 98-112 JP/LCS

CONSENT DECREE

The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action against Loewen Group International, Inc., d/b/a Memory Gardens of the Valley ("Loewen") to enforce Title VII of the Civil Rights act of 1964, 42 U.S.C. §2000e et seq. (Title VII). In the complaint, the Commission alleged that Loewen violated Title VII when it discharged Jose Ponce and Martha Avila from their positions as funeral telemarketers, positions which both held and performed in the Spanish language prior to their discharge, because of their national origin. Loewen denies the allegations of the Complaint.

46

General Provisions

1. The parties consent to the jurisdiction of the Court over this action.
2. This Consent Decree shall constitute neither an admission by Loewen of any violation of Title VII nor an adjudication by this Court on the merits of the allegations in the complaint.
3. This Consent Decree resolves all claims of the EEOC and Jose Ponce and Martha Avila against Loewen, including but not limited to claims for back pay, damages, interest, injunctive relief, attorney's fees and costs arising out of the issues in this lawsuit.
4. Loewen and its officers, agents, employees, successors, and assigns, for the duration of the decree, shall not discriminate against any employee because of their national origin.

Relief to Jose Ponce and Martha Avila

5. In accordance with this Decree, Jose Ponce shall receive \$8,000 (\$654.50 in back pay and \$7,345.50 in compensatory damages) and Martha Avila shall receive \$8,000 (\$654.50 in back pay and \$7,345.50 in compensatory damages) from Loewen in full and complete settlement of all claims against Loewen.
6. Loewen shall pay the settlement amounts to Mr. Ponce and Ms. Avila within twenty days of the date of entry of this Consent Decree. The checks will be made payable to Jose Ponce and Martha Avila. The appropriate federal and state taxes will be withheld from the back pay checks and W-2 forms will be issued to Mr. Ponce and Ms. Avila for the remaining amounts.
7. Loewen shall mail the checks to Mr. Ponce and Ms. Avila at the addresses provided by the EEOC. Within five days of the issuance of the checks, Loewen will submit a copy of the checks and related correspondence to the Regional Attorney, Equal Employment Opportunity

Commission, Albuquerque District Office, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189.

8. In response to any employment inquires or reference checks concerning Mr. Ponce and Ms. Avila, Loewen shall provide only Mr. Ponce's and Ms. Avila's dates of employment and positions held.

9. Loewen shall not take any action against Mr. Ponce and Ms. Avila in retaliation for opposing any unlawful employment practice, for filing a charge with the EEOC, or for assisting or participating in the filing of a charge of discrimination or assisting or participating in an investigation or proceeding under Title VII.

Loewen's Policies and Practices

10. Loewen shall carry out its policies and practices that guarantee a work environment free from national origin discrimination of its applicants or employees.

11. Loewen shall post in a prominent place frequented by its employees at its El Paso, Texas and Santa Teresa, New Mexico facilities the notice attached as Exhibit A, in Spanish and English. The Notice shall be the same type, style and size as Exhibit A.

12. Loewen shall provide training on discrimination according to the following terms:

A. Loewen will retain and pay for a consultant/lecturer who will provide consultation and training for one seminar-training session. All employees, including all managers and supervisors at the Loewen Santa Teresa, New Mexico facility shall attend the seminar. The seminar will be videotaped. The videotape will be viewed by Patricia Konen and Geoffrey Bennet in their respective locations. Patricia Konen and Geoffrey Bennet will certify in an affidavit that they viewed the videotape. The video tape will also be viewed by the employees, including all

managers and supervisors at the Loewen El Paso, Texas facility.

B. The seminar will be conducted within four months of the date of entry of this Consent Decree.

C. Loewen will select the consultant/lecturer. Loewen will submit the name, address, telephone number, and resume of the proposed consultant/lecturer together with the dates of the proposed seminar and the details of the contents of the training to the Regional Attorney of the Albuquerque District Office of the EEOC within 60 days of the date of the entry of this Consent Decree. The EEOC will have 30 days from the date of receipt of the information to approve or reject the proposed consultant/lecturer and/or the contents of the seminar, which consent shall not be reasonably withheld. In the event the Commission does not approve Loewen's designated consultant/lecturer, the Commission after consultation with Loewen will designate the consultant/lecturer at a cost not to exceed \$2,000.00 which shall be paid by Loewen.

D. The seminar-training session will include a minimum of two hours of instruction. All personnel, designated in paragraph A, will register and attend the seminar-training session. The list of attendees for the Santa Teresa, New Mexico and El Paso, Texas facilities will be retained by Loewen for the duration of the Consent Decree.

E. The seminar will include the subjects: what constitutes national origin discrimination and retaliation under Title VII; that national origin discrimination and retaliation in hiring, firing, compensation, assignment or other terms, conditions or privileges of employment violate Title VII; how to prevent

national origin discrimination and retaliation; how to provide a work environment free from such discrimination; and to whom and by what means employees may complain if they feel they have been subjected to discrimination in the workplace.

13. The EEOC, at its discretion, may have an appropriate EEOC representative attend and participate to the extent necessary and reasonable to accomplish the goals of the seminar-training described in paragraph 12.

Reporting by Loewen and Access by EEOC

14. Loewen shall report in writing and in affidavit form to the Regional Attorney of the EEOC's Albuquerque District Office at 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189, beginning six months from the date of the execution of this Consent Decree, and thereafter every six months for the 24 month duration of the Consent Decree, the following information:

A. Any changes, modifications, revocations, or revisions to its policies and procedures which concern or affect the subject of national origin discrimination and retaliation.

B. An affidavit stating that the Notice required in paragraph 11 of this Consent Decree was posted and the locations where it was posted.

C. The first report shall also contain a list of persons attending the seminar-training session described in paragraph 12 of this Consent Decree and a list of current personnel employed by Loewen at the Santa Teresa, New Mexico facility on the day of the seminar-training session.

D. The first report will also contain a list of persons attending the videotaped seminar at the El Paso, Texas facility and a list of current personnel

employed by Loewen at the El Paso, Texas facility as of the date(s) when the videotape was reviewed.

E. The first report shall also contain an affidavit stating Patricia Konen and Geoffrey Bennett viewed the videotape described in paragraph 12.

15. During the duration of this Decree, the Commission, upon reasonable notice, may enter and inspect Loewen's premises to ensure compliance with this Consent Decree and federal anti-discrimination laws.

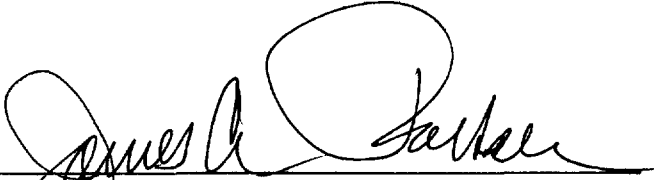
Costs and Duration

16. Each party shall bear its costs and attorney's fees incurred as a result of this action.

17. The duration of this Consent Decree shall be 24 months from the date of entry of the Decree. This Court shall retain jurisdiction of this action for the duration of the Decree, during which time the EEOC may petition this Court for compliance with the Decree and appropriate relief, including extension of this Decree for such period as may be necessary to remedy its non-compliance should the Court determine that Loewen has not complied with the Decree, and Loewen may petition this Court for relief in the event of a disagreement over compliance with any of the provisions or implementation of this Decree. This Decree shall expire by its own terms at the end of 24 months after entry, without further action by the parties.

18. The parties agree to the entry of this Decree subject to final approval by the Court.

ENTERED AND ORDERED this ____ day of _____, 1998.

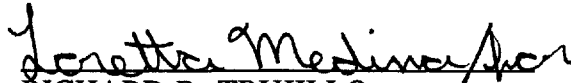

HONORABLE JAMES A. PARKER
UNITED STATES DISTRICT COURT JUDGE

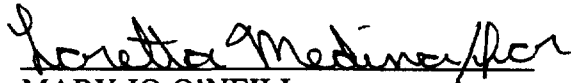
APPROVED AND CONSENTED TO:

C. GREGORY STEWART
General Counsel

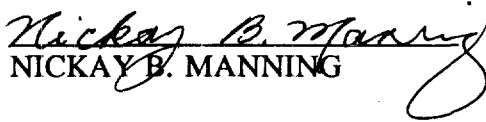
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Associate General Counsel

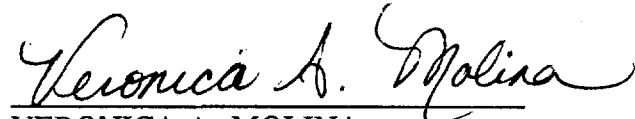
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Attorneys for Plaintiff

LOEWEN GROUP INTERNATIONAL, INC., d/b/a MEMORY GARDENS OF THE VALLEY IS FIRMLY COMMITTED TO FAIR EMPLOYMENT PRACTICES, AND WANTS YOU TO KNOW THE FOLLOWING IMPORTANT INFORMATION CONCERNING OUR POLICIES AGAINST DISCRIMINATION AND SPECIFICALLY LOEWEN GROUP'S COMMITMENT TO THE LAWFUL TREATMENT OF ALL EMPLOYEES:

It is unlawful under the federal law, Title VII of the Civil Rights Act of 1964, and state law to discriminate against an individual on the basis of national origin discrimination, in the 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, filed a charge with the EEOC, or assisted or participated in an investigation or proceeding under Title VII.

The management of Loewen Group believes national origin discrimination is conduct which has no place in the workplace.

If you believe you have been discriminated against by Loewen Group, you have the right to seek assistance from:

- (1) U.S. Equal Employment Opportunity Commission, 505 Marquette NW, Suite 900, Albuquerque, NM 87012-2189, telephone (505) 248-5201 or 1-800-669-4000; or the U.S. Equal Employment Opportunity Commission, El Paso Area Office, the Commons, Building C, Suite 100, 4171 N. Mesa Street, El Paso, Texas 79902, telephone (915) 832-4001;
- (2) the New Mexico Department of Labor, Human Rights Division (NMRD), 1596 Pacheco St., Suite 103, Santa Fe, New Mexico 87501, telephone (505) 827-6838.

If you believe you are being subjected to national origin discrimination or any other employment discrimination in violation of federal or state law, you have the right to file a charge with the EEOC or the NMHRD.

Federal law requires and Loewen Group believes that no action may be taken against you by any supervisory or management official of Loewen Group for (1) opposing discriminatory practices made unlawful by federal 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. Should any such retaliatory actions be taken against you, you should immediately contact the EEOC or the NMHRD listed above.

Exhibit A