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DAVID W. DANIEL, CLERK
US DISTRICT COURT
E. DIST. OF NO. CAR.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
CIVIL ACTION NO. 7:02-CV-05-F1

FILED

FEB 26 2003

DAVID W. DANIEL, CLERK
U.S. DISTRICT COURT
E. DIST. NO. CAR.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

MARIA E. WITHEY,

Plaintiff-Intervenor

v.

LIBERTY COMMONS NURSING
CENTER, INC.

Defendant.

55x03#27/25.224

CONSENT DECREE

The Equal Employment Opportunity Commission (the "Commission") instituted this action seeking relief for Maria Withey and Kimberly C. Allen, pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The Commission, the Plaintiff-Intervenor, Maria E. Withey, and the Defendant, Liberty Commons Nursing Center, Inc., ("Defendant"), hereby stipulate to jurisdiction of the Court over the parties and agree that the subject matter of this action is properly before the Court.

The parties desire to resolve this action without the burden, expense, and delay of contested litigation.

It is therefore the finding of this Court, made on the submissions of the parties, that: (1) the court has jurisdiction over the parties and the subject matter of this action; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent Decree; and (3) this Consent Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 15 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against any employee on the basis of sex, including sexual harassment, or any other protected category within the meaning of Title VII of the Civil Rights Act of 1964.

2. Defendant shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964, or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under that statute.

3. Defendant agrees to pay the sum of Forty-Five Thousand Dollars (\$45,000.00) to Charging Party Maria Withey. Defendant shall make payment by issuing a check payable to Plaintiff-Intervenor's counsel, Charles M. Tighe, Trustee. Payment shall be made within fifteen (15) days after entry of this Consent Decree by the Court, and Defendant shall mail the check to her counsel at the address of record in this proceeding. Within ten (10) days after the check has been sent, Defendant shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte, N.C. 28202, a copy of the check and proof of its delivery to counsel for the Plaintiff-Intervenor.

4. Defendant agrees to pay the sum of five thousand dollars (\$5,000.00) to Kimberly C. Allen, in settlement of the claims raised on her behalf in this action. Defendant shall make payment by issuing a check payable to Kimberly C. Allen. Payment shall be made within fifteen (15) days after entry of this Consent Decree by the Court, and Defendant shall mail the check to Ms. Allen at the address provided by the Commission. With ten days after the check has been sent, Defendant shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202, a copy of the check and proof of its delivery to Kimberly C. Allen.

5. Defendant agrees to eliminate from the employment records of Maria Withey any and all documents, entries, or references of any kind relating to the facts and circumstances which led to the filing of EEOC Charge Number 14A980044 and the related events that occurred thereafter.

6. Defendant agrees to eliminate from the employment records of Kimberly C. Allen any and all documents, entries, or references of any kind relating to the facts and circumstances which led to the filing of EEOC Charge Number 14A980044 and the related events that occurred thereafter.

7. Defendant shall institute and implement an anti-discrimination policy. During the term of this Consent Decree, Defendant shall provide an annual training program to all of its managers, supervisors and employees at its facility in Wilmington, North Carolina. Each training program shall include an explanation of the requirements of Title VII of the Civil Rights Act of 1964, and its prohibition against sex discrimination in the workplace, including sexual harassment and retaliation. Each training program shall also cover Defendant's anti-

discrimination policy and an explanation of the rights and responsibilities of employees and managers under the policy. The first training program shall be completed within ninety (90) days after entry of this Consent Decree by the Court. Each subsequent training program shall be conducted at approximately one-year intervals. Within ten (10) days after completion of each training program, Defendant shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all employees in attendance.

8. During the term of this Consent Decree, Defendant shall conspicuously post the attached Employee Notice, marked Appendix A, hereby made a part of this Decree, in a place where it is visible to employees at its Wilmington, North Carolina facility. If the Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice.

9. Defendant agrees to provide the Commission with semi-annual reports during the term of this Consent Decree. The reports shall include the following information: (a) the identities of all individuals who have complained of sexual harassment at Defendant's Wilmington, North Carolina facility including by way of identification each person's name, sex, position and social security number; (b) a detailed statement of the individual's complaint; (c) the identity of the alleged harasser; and (d) what action was taken in response to the individual's complaint. Defendant shall submit the reports to the Commission four (4) months after the date of entry of this Consent Decree and every six months thereafter during the term of this Decree.

10. Defendant agrees to file with the Commission the appropriate EEO-1 form within ninety (90) days after the entry of this Consent Decree by the Court.

11. Defendant agrees that the Commission may review compliance with this Consent Decree. As part of such review, the Commission may inspect Defendant's Wilmington, N.C. premises, interview employees and examine and copy documents.

12. If at anytime during the term of this Consent Decree, the Commission believes that Defendant is in violation of the Decree, the Commission shall give notice of the alleged violation to Defendant. Defendant shall have ten (10) days in which to investigate and respond to the allegations. Thereafter, the parties shall then have a period of ten (10) days or such additional period as may be agreed upon by them, in which to engage in negotiation and conciliation regarding such allegations before the Commission exercises any remedy provided by law.

13. The term of this Consent Decree shall be for three (3) years from its entry by the Court.

14. Each party shall bear its own costs and attorney's fees.

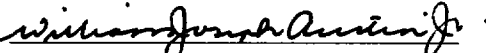
15. This Court shall retain jurisdiction of this cause for purposes of monitoring compliance with this Consent Decree and entry of such further orders as may be necessary or appropriate.

Feb. 25, 2003
Date

James C. Fox
Judge, U.S. District Court
Eastern District of North Carolina

The parties jointly request that the Court approve and enter this Consent Decree:


LIBERTY COMMONS NURSING CENTER, INC.

By: 
WILLIAM JOSEPH AUSTIN, JR.

WARD & SMITH, P.A.
1001 College Court
P.O. Box 867
New Bern, N.C. 28563-0867


EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

GWENDOLYN YOUNG REAMS
Associate General Counsel
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1801 "L" Street, N.W.
Washington, D.C. 20507

By: 
MINDY E. WEINSTEIN
Regional Attorney

LYNETTE A. BARNES
Supervisory Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
129 W. Trade Street, Suite 400
Charlotte, N.C. 28201

By: 
ZOË G. MAHOOD
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1309 Annapolis Drive
Raleigh, N.C. 27608

PLAINTIFF-INTERVENOR MARIA E. WITHEY

By:

A handwritten signature in cursive script, appearing to read "Charles M. Tighe", written over a horizontal line.

CHARLES M. TIGHE

Highwood Park Plaza
3173 Wrightsville Avenue
Wilmington, N.C. 28401

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)**

Plaintiff,)

v.)

**LIBERTY COMMONS NURSING)
CENTER INC.,)**

Defendant.)

**CIVIL ACTION NO.
7:02-CV-05-F1**

NOTICE TO EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered in the above-styled case. Federal law prohibits discrimination against any employee or applicant for employment because of the individual's sex, race, color, religion, national origin, disability or age (40 and over) with respect to hiring, promotion, discipline, firing, compensation, or other terms, conditions or privileges of employment. Federal law also prohibits retaliation against any employee or applicant for employment because the individual has opposed discriminatory employment practices.

Liberty Commons Nursing Center, Inc. ("Liberty Commons") supports and will comply with such federal law in all respects and will not discriminate against any employee because of their sex. Additionally, Liberty Commons will not take any action against employees because of their race, color, religion, national origin, disability or age, or because they have exercised their rights under the law.

Liberty Commons has adopted an equal employment opportunity policy and will ensure that all management, supervisors, and other employees abide by the requirements of that policy. Liberty Commons has taken, and will continue to take all actions required by the United States District Court, including the grant of monetary relief to aggrieved individuals, and the posting of this notice.

If you believe that you have been discriminated against based on your sex, you should report the discriminatory conduct promptly to Liberty Commons, or to the U.S. Equal Employment Opportunity Commission.

This Notice will remain posted for at least three (3) years by agreement with the U.S. Equal Employment Opportunity Commission.

DO NOT REMOVE THIS NOTICE UNTIL: _____, 2004.

Date

for Liberty Commons Nursing Center, Inc.