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FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y

★ MAY 28 2004 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

-against-

JOHN HARVARD'S BREW HOUSE, LLC,

Defendant.
-----X

LONG ISLAND OFFICE

Civil Action No. 03-CV-3800
(ADS)(WDW)

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U.S. DISTRICT COURT E.D.N.Y

★ JUN 01 2004 ★

LONG ISLAND OFFICE

CONSENT DECREE

This cause of action was initiated on August 5, 2003, by the United States Equal Employment Opportunity Commission ("EEOC") alleging that John Harvard's Brew House LLC ("Defendant") engaged in unlawful employment practices on the basis of sex, in violation of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.* ("Title VII"). EEOC alleged that Defendant discriminated against Charging Party Jennifer James ("Charging Party") because of her pregnancy, including discontinuing her management training, removing her from a managerial career track, denying her work assignments, and terminating her employment.

The Parties agree that it is in their mutual interests to fully resolve the matter without further litigation. In consideration of the mutual promises, agreements and consideration contained herein, EEOC and Defendant do hereby stipulate and consent to the entry of this Decree as final and binding between the Parties and their successors or assigns.

This Decree resolves all pregnancy discrimination claims presented by EEOC's Complaint and

Jennifer James' Charge No. 160-A2-00174 and constitutes a complete resolution of all claims of discrimination under Title VII in this Complaint that were made by the EEOC and Charging Party. This Decree in no way affects EEOC's right to process any future charges that may be filed against Defendant, including a charge filed by a member of the Commission (other than arising from Charging Party's charge which is the subject of this Decree), in accordance with EEOC procedures, and to commence civil actions on any such charges. Nothing in this Decree shall be construed to preclude EEOC from bringing proceedings to enforce this Decree in the event that Defendant fails to perform any of the promises and representations contained herein.

The Parties agree that this Court has jurisdiction over the subject matter of this action and the parties for the duration of this Decree, that venue is proper, and that all administrative prerequisites have been met all for purposes of entering and enforcing this Decree. The Parties further agree that this Decree may be entered without Findings of Fact and Conclusions of Law having been made and entered by the Court.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, it is agreed and IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. In settlement of this action, Defendant shall pay a total of one hundred forty-five thousand dollars (\$145,000.00) to Charging Party Jennifer James. No part of this monetary amount shall be spent on the costs of implementing this Decree or for any other injunctive relief put forth in this Decree. This payment is to be made within twelve (12) business days of the entry of this Consent Decree. A copy of the check and any tax related documents shall be sent to EEOC at

the same time when they are sent to Charging Party.

2. Within twelve (12) business days of the entry of this Consent Decree, Defendant will provide Charging Party the letter of recommendation attached as Exhibit A.
3. (a) By October 2004, Defendant will provide a three (3) hour anti-discrimination training for all management personnel to be conducted by Jackson Lewis LLP or a suitable entity agreed to by the Parties. Once each year in calendar years 2005 and 2006, Defendant will provide a one and a half (1.5) hour refresher anti-discrimination training to be conducted by Jackson Lewis LLP or a suitable entity agreed to by the Parties for all management personnel who have already received the three (3) hour anti-discrimination training pursuant to paragraph (3)(a) of this Decree. Once each year in calendar years 2005 and 2006, Defendant will provide a three (3) hour anti-discrimination training to be conducted by Jackson Lewis LLP or a suitable entity agreed to by the Parties for all management personnel who have not previously received the three hour (3) anti-discrimination training pursuant to paragraph (3)(a) of this Decree.

(b) By October 2004, Defendant will provide an initial one (1) hour anti-discrimination training for non-management employees, who are hired by June 1, 2004, to be conducted via an interactive computer program created by HRTRAIN. For non-management employees hired after June 1, 2004, Defendant will provide such employees the same initial one (1) hour anti-discrimination training by October 2004 or within sixty (60) days of their hire, whichever is later. Once each year in calendar years 2005 and 2006, Defendant will again provide this interactive computer program to all non-management personnel. Alternatively, if agreed to by the EEOC, the training in years 2005 and 2006 for non-management employees, who have

already received the initial one (1) hour interactive computer training, may be a refresher program created by HRTRAIN whose content and duration are agreed to by the Parties.

(c) All training programs must be subject to the EEOC's approval. Within four (4) weeks of the entry of this Decree, Defendant is to provide the EEOC with its proposed interactive computer program. Within two weeks (2) of receipt of such proposed computer training program, the EEOC is to provide its response to Defendant. The EEOC will not unreasonably withhold its consent. However, if the EEOC objects to Defendant's proposed computer training program and Defendant does not address the EEOC's concerns within two weeks (2) of receipt of the EEOC's response, then the EEOC may seek appropriate relief from the Court.

(d) All training programs for management and non-management personnel specified in paragraphs 3(a) and 3(b) above should at a minimum cover the following: (a) a summary of the laws governing retaliation, sex discrimination, pregnancy discrimination, and sexual harassment; (b) examples of conduct prohibited under the applicable laws and Defendant's anti-discrimination policies; (c) case studies covering a variety of scenarios and a question/answer session; and (d) a summary of the procedures and policies that Defendant has instituted to prevent all forms of discrimination, including procedures regarding receiving, documenting and investigating claims of discrimination. Defendant will forward to EEOC a summary of the topics covered and a copy of the attendance sheet or participation list for each anti-discrimination training in October 2004 and every April and October of years 2005 and 2006.

4. Within twelve (12) days of the entry of this Decree, Defendant shall post and maintain, in

employee break areas and places where employee notices are posted, the notice of non-discrimination attached as Exhibit B.

5. Defendant will maintain the non-discrimination policy attached as Exhibit C.
6. At the time employees request or commence leave under the Family Medical Leave Act ("FMLA"), Defendant will provide such employees with a copy of its anti-discrimination policy, together with such other materials as may be provided under the FMLA.
7. Defendant agrees to comply with all requirements of Title VII, including, but not limited to, prohibitions concerning sex and pregnancy discrimination and retaliation.
8. Each party shall bear its own attorney fees and costs incurred in this action.
9. This Decree constitutes the complete understanding between the Parties hereto. No other promises or agreements shall be binding unless agreed to in writing and signed by the Parties. No waiver, modification or amendment or any provision of the Consent Decree shall be effective unless made in writing, approved by all Parties to this Decree and approved by the Court or ordered by the Court.
10. This Decree, being entered with the consent of the EEOC and Defendant, shall not constitute an adjudication or finding on the merits of the case and shall not be construed as an admission of liability by Defendant, which denies liability.
11. If the EEOC determines that Defendant has not complied with the terms of this Decree, the EEOC will provide written notice of the alleged breach to Defendant. The EEOC will not

petition the Court for enforcement of this Decree for at least ten (10) business days after providing the written notice. The 10-business day period will be used by the Parties for good faith efforts to resolve the dispute. Any uncured breach of any term of this Decree shall be deemed a material breach of this Decree.

12. This Decree will remain in effect for a period of three years from the date of entry of this Decree by the Court.

Dated: New York, New York
May 27, 2004

Dated: New York, New York
May 28, 2004

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

JACKSON LEWIS LLP

Katherine E. Bissell

By Roger H. Briton

Katherine E. Bissell
Regional Attorney

Roger H. Briton
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Fax: (212) 336-3623

Case Closed.

SO ORDERED:

Date: 6/1/04

Arthur D. Spatt, U.S.D.J.

Mr. Briton
MOVANT'S COUNSEL IS DIRECTED TO SERVE ⁶A
COPY OF THIS ORDER ON ALL PARTIES UPON
RECEIPT.

[Defendant's Letterhead]

To Whom It May Concern:

Ms. Jennifer James was employed from June 2000 until August 2001, first as a server and later assuming supervisory duties. Because of her performance, she was given the supervisory duties within a year of the start of her employment.

The following information is provided from Ms. James' last performance evaluation dated July 25, 2001:

Ms. James has the potential to be a good leader. The staff likes her and wants to follow her. She is good with the guests on the floor and has some great ideas to build sales in the restaurant. She has been proactive in identifying the staffing needs in the restaurant. She has good communication skills. She listens very well and hears what people are saying. She accepts criticism well and uses the feedback to her benefit and future growth.

Sincerely,

[Signature of Highest Officer of Company]

Name of Highest Officer of Company
Title of Highest Officer of Company



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office**

**33 Whitehall Street, 11th Floor
New York, New York 10004-2112
Telephone: (212) 336-3620
TDD: (212) 336-3622
General FAX: (212) 336-3625**

**NOTICE TO EMPLOYEES OF
JOHN HARVARD'S BREW HOUSE, LLC**

This notice is being posted pursuant to a Consent Decree entered into between John Harvard's Brew House, LLC and the United States Equal Employment Opportunity Commission ("EEOC"), in resolution of Case No. 03 3800 filed in the Eastern District Court of New York. In that lawsuit, EEOC alleged that John Harvard's Brew House, LLC violated Title VII of the Civil Rights Act of 1964, as amended, by engaging in pregnancy based sex discrimination against a female employee.

Federal law and the Consent Decree prohibit discrimination against any individual because of his or her sex in any and all aspects of the employment relationship, such as pay, promotion, assignments, hours, and any other terms, conditions or privileges of employment.

Federal law also prohibits retaliation against any individual by an employer because the individual complains of discrimination, cooperates with the government's investigation of a charge of discrimination, participates as a witness or potential witness in litigation, or otherwise exercises his or her rights under the law.

Should you have any complaints of discrimination, you may contact the

**Equal Employment Opportunity Commission
33 Whitehall Street, 11th Floor
New York, New York 10004-2112
(212) 336-3620
(800) 669-4000**

THIS IS AN OFFICIAL NOTICE AND SHALL NOT BE DEFACED BY ANYONE.

This notice must remain posted until three years from the date of posting and may not be altered, defaced or covered by any other material.

EMPLOYEE GUIDEBOOK**EMPLOYEE RELATIONS****EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of John Harvard's Brew House to recruit, hire, train, and promote employees without discrimination on the basis of race, color, sex, age, religion, national origin, disability, pregnancy, veteran status, or sexual orientation. This equal employment opportunity policy extends to all aspects of the employment relationship including hiring, compensation, promotions, job assignments and discipline. We are committed to training and advising those who are in a position to make decisions regarding hiring, salary administration and other terms and conditions of employment in the positive application of this policy. In addition, this policy will be made known to all employees of John Harvard's Brew House, all recruitment sources such as employment agencies and newspapers as well as all persons who come to John Harvard's Brew House for the purpose of seeking employment.

HARASSMENT POLICY

The success of the company is based upon our fundamental commitment to treating our employees with equality, dignity and respect. Our support of equal employment opportunity includes the recognition that sexual harassment of employees or harassment of employees on account of gender, age, race, color, religion, national origin, disability, pregnancy, ancestry, sexual orientation, marital, or veteran status, or any other legally protected status will not be tolerated. All of our employees have the right to be free from unwelcome sexual advances, or any other verbal or physical conduct, which constitutes harassment.

SEXUAL HARASSMENT

Sexual Harassment of employees by supervisory personnel, non-supervisory personnel, guests, co-workers, or vendors, as well as harassment of our guests or vendors by employees, are unlawful and will not be tolerated. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. All members of management have the responsibility to maintain their respective workplace free of sexual harassment. This accountability includes communicating these guidelines to all employees and providing an environment where sexual harassment is not tolerated.

Sexual harassment -whether on or off the job, during off-site work assignments, Company sponsored social functions, or elsewhere -will not be tolerated.

Sexual harassment *is defined* as "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, 2) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or 3) such advances, requests or conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive environment."

While it is not possible to list all those circumstances and conduct that constitute sexual harassment, the following are some examples of conduct that may be prohibited:

- .Sexual advances whether or not they involve physical touching.
- .Requests or demands for sexual favors in exchange for actual or promised job benefits, e.g. favorable reviews, assignments, promotions, increased benefits, or continued employment.
- .Sexual jokes.

EMPLOYEE GUIDEBOOK

Note:

Use of sexual language, epithets, flirtations, advances, or propositions. Leering, whistling, touching, pinching, or brushing the body.

Written or oral references to sexual conduct, gossip about one's sex life, inquiries or comments about an individual's body, or about an individual's sexual activity or sexual orientation practices.

Comments about one's sexual activities.

Displays in the work place of sexually suggestive objects, pictures, posters, or cartoons.

Any conduct that creates an intimidating, hostile, or offensive working environment.

Other Forms of Harassment

Harassment of employees on account of gender, age, race, color, religion, national origin, disability, pregnancy, ancestry, sexual orientation, marital, or veteran status, or any other legally protected status will not be tolerated. Harassment -whether on or off the job, during off-site work assignments, Company sponsored social functions, or elsewhere -will not be tolerated.

For the purpose of this policy, harassment is defined as inappropriate conduct, either real or perceived, of a verbal or physical nature, which is generally based on a person's gender, race, color, disability, pregnancy, sexual preference, age, religion, national origin, or any other legally protected status. Examples of prohibited conduct include:

.Verbal comments, inquiries, or remarks which are personally derogatory in nature, inappropriate or intended to be uncomplimentary relating to another person's gender, race, color, disability, pregnancy, sexual preference, age, religion, national origin, or any other legally protected status.

Threats or insinuations from management or supervisory personnel, either stated or implied, that suggest that an employee's employment with the Company will be positively or negatively affected on account of gender, race, color, disability, pregnancy, sexual preference, age, religion, national origin, or any other legally protected status.

Any conduct that creates an intimidating, hostile, or offensive working environment.

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Employee Guidebook

EMPLOYEE GUIDEBOOK

COMPLAINT PROCEDURE

The Company wants all employees to know that they are not required to endure insulting, degrading, or exploitive treatment. The Company also requires that each person exhibit in his/her conduct or communication, sound judgment and respect for every other employee, guest, and vendor of the Company. Employees have a right to file a complaint with the Company. Employees are urged to promptly bring a complaint of sexual harassment or any form of harassment or discrimination to the Company's attention. This may be done in writing or orally.

.Employees who feel comfortable doing so should inform the person(s) engaging in such harassment that the conduct is unwelcome, offensive, and that it must stop.

..Further, any employee who believes he/she is experiencing sexual harassment or any form of harassment or discrimination should report such circumstances to Company management immediately. This may be done in writing or orally.

.If the employee is not comfortable discussing the issue with an immediate supervisor or member of management, the employee may file a complaint by contacting the Human Resources Department at the Company's Corporate Headquarters (703 Granite Street, Braintree, MA -Telephone: (781) 356-4730). The Human Resources Department is also available to discuss any concerns the employee may have or to provide information about the Company's policy on harassment or discrimination.

.Any employee in a supervisory role who is informed of alleged harassment activities or discrimination occurring within the Company has the responsibility to immediately report such conduct to their immediate supervisor, or if not appropriate directly to the Human Resources Department at Corporate Headquarters.

.The Human Resources Department will, where warranted, investigate and attempt to resolve, in a timely and effective manner, all complaints of harassment or discrimination.

.All information obtained during an investigation will be treated confidentially and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter. Employees who disclose confidential information to unauthorized parties will be subject to disciplinary action, which may include termination.

.Investigations may include interviews with the complainant and witnesses, as well as the person alleged to have committed the harassment or discrimination.

.If sexual harassment or any form of harassment or discrimination is found to have occurred, it will not be tolerated and disciplinary action up to and including termination of employees who have violated this policy will occur. Employees may also file a formal complaint, in addition to, the complaint resolution procedures outlined in this policy. A person wishing to pursue other remedies may contact the appropriate government agencies.

Retaliation Prohibited

Neither the Company nor its supervisors or officers will in any way unlawfully retaliate against an employee or former employee who makes a good faith report of any type of harassment or participates in an investigation. It is the responsibility of all officers, managers, supervisors, and employees to strictly comply with and enforce the terms of this policy within their respective levels of responsibility.

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OPEN DOOR POLICY

Our success depends on maintaining clear communications with all our employees. It is important to us to respond to a complaint, problem or anything you feel is unfair or unacceptable in any way and therefore, we advocate an open door policy.

We recognize that whenever people work closely together on a daily basis, some problems will inevitably arise. We believe that many of these problems can be settled quickly if they are simply brought to the appropriate person's attention. Accordingly, you should feel free to discuss any complaint or problem with your manager. If the complaint and problem is not resolved, it should be brought to the attention of the General Manager, and more senior management if necessary.

We recognize that there are times when problems arise that are of a private nature or may involve a subject that you do not wish to discuss with your manager. In these cases, you may bring the matter directly to the attention of any senior member of management, such as the General Manager or the Human Resources Director, who will respond promptly. No employee will be penalized or retaliated against in any way for bringing up a problem or registering a complaint.

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