

IN THE UNITED STATES DISTRICT COURT

NOV 14 2001

FOR THE DISTRICT OF NEW MEXICO

Robert M. March

CLERK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

NO. CIV-01-0382 BB/LFG

Plaintiff,)

v.)

CONSENT DECREE

LARKEN ALBUQUERQUE LIMITED)
PARTNERSHIP, LARKEN ALBUQUERQUE,)
INC., LARKEN, INC. OF ALBUQUERQUE and)
LARKEN, INC., d/b/a RADISSON HOTEL,)

Defendants.)
_____)

The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action against Larken, Inc. of Albuquerque and Larken, Inc., d/b/a Radisson Hotel, to enforce Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e et seq. (Title VII) and the Age Discrimination in Employment Act (ADEA). In the Complaint, the Commission alleged that defendants subjected Janet Sanchez to employment discrimination based on her sex, national origin, and/or age, in violation of Title VII and the ADEA.

This Decree does not constitute an admission to liability by the defendants, nor an adjudication on the merits of the allegations in the complaint. The parties do not object to the jurisdiction of the Court over this action and waive their rights to a hearing and the Entry of Findings of Fact and Conclusions of Law.

Larken Albuquerque Limited Partnership and Larken Albuquerque, Inc. claim that they were not the employers of Janet Sanchez and that they were not properly named in any employment charge, or as defendants in this lawsuit. However, in the interest of securing appropriate relief in this matter, Larken Albuquerque Limited Partnership and Larken Albuquerque, Inc. agree to their voluntary joinder as party defendants in this lawsuit for the limited purpose of submitting to the jurisdiction of this Court for the purpose of providing them protection from further litigation or claims related to the facts and issues arising out of this lawsuit.

The EEOC claims that Larken Albuquerque Limited Partnership and Larken Albuquerque, Inc. are joint venturers in the Radisson Hotel, which is managed by Larken, Inc., an Iowa corporation. For purposes of this Consent Decree, Larken Albuquerque Limited Partnership, Larken Albuquerque, Inc., Larken, Inc. of Albuquerque, and Larken, Inc., d/b/a Radisson Hotel, are referred to collectively as "defendants" and the terms of this Decree apply to such defendants, unless otherwise specified. The term "Hotel" as used in this Decree will mean and refer to the hotel located at 1901 University Blvd. S.E., Albuquerque, New Mexico.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. This Decree resolves all claims of the Commission and Janet Sanchez against the defendants, including back pay, interest, injunctive relief, attorney's fees and costs arising out of the issues in this lawsuit.

AGREEMENT NOT TO DISCRIMINATE

2. Defendants, their officers, agents, employees, successors, assigns and all persons in active concert or participation with them agree, for the duration of the Decree, not to unlawfully discriminate against any employee on the basis of sex, national origin, or age, or to retaliate against any employee who: (a) opposes practices made unlawful by Title VII, the ADEA or a state equal employment statute, (b) makes a charge of discrimination or assists or participates in an investigation or proceeding under Title VII, the ADEA, or a state equal employment statute, or (c) files an internal complaint of discrimination. Defendants agree that the term of this agreement not to unlawfully discriminate in violation of the aforesaid statutes will remain in effect for the duration of the Decree.

RELIEF TO JANET SANCHEZ

3. In accordance with this Decree, Janet Sanchez shall receive compensatory damages in the amount of seventy thousand dollars (\$70,000.00) from Larken, Inc. in full and complete settlement of all claims against the defendants arising out of the facts and issues included in this lawsuit.

4. Larken, Inc. shall pay the amount designated in paragraph 3 by mailing a check directly to Janet Sanchez at 2800 Azar Place N.W., Albuquerque, New Mexico 87104, within ten (10) days of the date of entry of this Consent Decree and after receipt by Larken, Inc. of a fully executed general release Ms. Sanchez will execute, whichever occurs later. The check will be made payable to Janet Sanchez. Within five (5) days of the issuance of the check, Larken Inc. will submit a copy of the check and related correspondence of the Regional Attorney, Equal Employment Opportunity Commission, 505 Marquette N.W.,

Suite 900, Albuquerque, New Mexico 87102-2189.

5. In the event the payment required by paragraph 3 is not made by the 10th day after entry of this Decree and delivery of the executed general release, it is agreed that plaintiff may seek a judgment against the defendants.

6. In response to any employment inquiries or reference checks concerning Janet Sanchez the defendants shall provide only the charging party's dates of employment each position held, job duties and salary. This provision shall remain in force for so long as Janet Sanchez uses the defendants as a reference and is not limited to the three years of this Decree.

7. Defendants shall not take any action against any witness in this case in retaliation for filing a charge of employment discrimination or for participating, assisting or testifying in this action.

POLICIES AND PRACTICES

8. Defendants shall review its existing policies on unlawful employment discrimination, and make any changes necessary so that its policies comply with Title VII and the ADEA. Defendants shall ensure its written policy includes a statement that employees at the Hotel are encouraged to complaint directly to EEOC if they, for any reason, do not wish to make a complaint at their work place. After reviewing and making any necessary revisions to its policies, defendants shall distribute a copy of its employment discrimination policies to each of its current full and part-time employees, and to each new employee hired at the Hotel for the duration of this Decree.

TRAINING AND POSTING BY DEFENDANTS

9. Defendants shall provide training on sex, national origin, and age discrimination according to the following terms:

- A. Defendants shall retain and pay for a consultant/lecturer who shall provide consultation and training for one seminar-training session each year this Decree is in effect. All employees of the Hotel shall attend the seminar-training sessions. In addition, all management personnel who are responsible for hiring and firing decisions for the Hotel shall attend the seminar-training sessions. Duplicative sessions and/or videotaped sessions may be held to accommodate staffing needs. Defendants shall be responsible for any additional costs to provide such duplicative sessions.
- B. The first seminar-training session shall be conducted within four (4) months of the entry of this Decree.
- C. The consultant/lecturer shall be a person(s) acceptable to the Commission. Defendants shall submit the name(s), address(es), telephone number(s), and resume(s) of the proposed consultant/lecturer(s) together with the dates of the proposed seminar-training sessions and the details of the contents of the training to the Regional Attorney of the Albuquerque District Office of the Equal Employment Opportunity Commission within sixty days of the entry of this Decree. The Commission shall have thirty days from the date of receipt of the information described above to accept or reject the proposed consultant/lecturer and/or the contents of the training. In the event the commission does not approve

the designated consultant/ lecturer, the Commission shall designate the consultant/ lecturer which shall be paid by the Defendant and its successors at a cost not to exceed one thousand dollars (\$1,000.00) per year.

D. The seminar-training sessions shall be no less than two (2) hours of instruction.

All personnel, designated in Paragraph A shall both register and attend the seminar-training session. The registry of attendance shall be retained by defendants for the duration of the Decree.

E. The training shall include the subject of which constitutes unlawful discrimination based on sex, national origin, and age, and retaliation; that sex, national origin, and age discrimination in the hiring, firing, compensation, assignment or other terms, conditions or privileges of employment and retaliation violates Title VII or the ADEA; how to prevent sex, national origin, and age discrimination and retaliation, how to provide a work environment free from sex, national origin, and age discrimination, and to whom and by what means employees may complain if they feel they have been subjected to discrimination based on sex, national origin, or age, and retaliation in the workplace.

F. Employees hired after the seminar-training sessions are presented shall view, at or around the time of their hire, a video tape of the training and/or a professional training tape which covers the topics set forth in 9.E. and shall be given any written material disseminated at the seminar-training sessions for the duration of this Decree.

10. The Commission, at its discretion, may designate Commission representatives to attend and participate in the seminar-training sessions described above, and the representatives shall have the right to attend and fully participate in the sessions.

11. Defendants shall post within 30 days of the entry of this Consent Decree, for a period of thirty six (36) months in a prominent place frequented by its employees, the Notice attached to this Decree as Exhibit A. This Notice shall be the same type, style and size as in Exhibit A.

REPORTING BY DEFENDANTS AND ACCESS BY EEOC

12. Defendants shall report in writing and in affidavit form to the Regional Attorney of the Commission's Albuquerque District Office at 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102, beginning six months from the date of the entry of this Decree, and thereafter every six months for the duration of the Decree the following information:

- A. Any changes, modifications, revocations, or revisions to its policies and procedures which concern or affect the subject of sex, national origin, or age discrimination.
- B. The registries of persons attending each of the seminar-training sessions required in paragraph 9 of this Decree and a list of current employees on the day of the seminar-training session.
- C. An affidavit by defendants stating: (1) the Notice required in paragraph 11 of this Decree was posted and the locations where it was posted; and (2) they have complied with paragraph 8 of this Decree.

D. In the event the Hotel is sold within three years of entry of this Decree, defendants shall provide to the Regional Attorney of the Albuquerque EEOC Office, a complete copy of the fully executed and recorded deed evidencing transfer of the Hotel within thirty (30) days of the date the sale was closed.

13. The Commission upon reasonable notice shall have the right to enter and inspect the defendants' facilities to ensure compliance with this Decree and federal anti-discrimination laws.

COSTS AND DURATION

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

15. Except as otherwise provided herein, the duration of this Decree shall be three (3) years from its entry. This Court shall retain jurisdiction of this action for the duration of the Decree, during which the Commission may petition this Court for compliance with this Decree. Should the Court determine that defendants have not complied with this Decree, appropriate relief, including extension of this Decree for such period as may be necessary to remedy its non-compliance, may be ordered.

16. Except as provided herein, this Decree shall expire by its own terms at the end of three (3) years after entry, without further action by the parties. However, the Decree shall expire at an earlier date if, as a result of a sale or transfer of the Hotel, none of the defendants or their respective principals have any remaining ownership interest in or management relationship with the Hotel. In the event of the closing of such a sale or transfer within one year of the date this Decree is entered, this Decree shall expire one year from the

date it was entered. In the event of the closing of such a sale or transfer that occurs more than one year from the date this Decree is entered, this Decree shall expire on the closing date of that transaction. However, this Decree shall expire earlier than three years only if (1) defendants provide proof to the EEOC of a sale of the Hotel in the form of transfer of ownership documents that reflect the sale as well as no remaining ownership interest of, or management relationship by, any of the defendants or their respective principals; and (2) defendants and/or purchaser(s) are current with their obligations pursuant to this Decree both as of the effective date of the sale and the date of the proposed early termination of this Decree.

17. The parties agree to entry of this Decree and judgment subject to final approval by the Court.

ENTERED AND ORDERED this 13th day of November 2001.


THE HONORABLE BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

APPROVED AND CONSENTED TO:

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Attorneys for Plaintiff

NOTICE TO ALL HOTEL EMPLOYEES

This Notice is posted pursuant to a Consent Decree entered into between the Hotel, located at 1901 University Boulevard, S.E., Albuquerque, New Mexico, and the Equal Employment Opportunity Commission (EEOC).

It is unlawful under the federal law (Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act) and state law to discriminate against an employee on the basis of sex, national origin, or age, in the hiring, firing, compensation or other terms, and conditions or privileges of employment.

The Hotel shall not discriminate on the basis of sex, national origin, or age, and shall not retaliate against any employee who opposes a practice made unlawful under federal law, files, assists, or participates in the filing of a charge of discrimination or participates in any investigation under Title VII or the ADEA.

If you believe you have been discriminated against by the Hotel, you have the right to seek assistance from and file a charge of discrimination with the:

- 1) Equal Employment Opportunity Commission (EEOC), 505 Marquette, Suite 900, Albuquerque, New Mexico 87102, (505) 248-5201 or 1-800-669-4000;
or
- 2) The New Mexico Department of Labor, Human Rights Division (NMHRD), 1596 Pacheco St., Suite 103, Santa Fe, New Mexico 87505, (505) 827-6838.

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

Further, federal law requires that no action may be taken against you 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 or the ADEA. Should any such retaliatory actions be taken against you, you should immediately contact the EEOC or the NMHRD listed above.

EXHIBIT A