

STENDER &
SERVICE
1612... 400
...01

THE HONORABLE ALAN A. MCDONALD

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

APR 12 2004

JAMES R. LARSEN, CLERK
DEPUTY
YAKIMA, WASHINGTON

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Plaintiff,

v.
SUPERVALU, INC.

Defendant.

CIVIL NO. CS-02-306-AAM
(PROPOSED) CONSENT
DECREE AND ORDER
DISMISSING ACTION

I. INTRODUCTION

1. This action originated with a discrimination charge filed by Roger C. King with the Equal Employment Opportunity Commission ("EEOC or the Commission") on October 4, 2001. Mr. King alleged that SuperValue, Inc. ("SuperValu" or "Defendant") discriminated against Mr. King based upon his religion in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. ("Title VII").

2. On February 14, 2002, the EEOC issued a Letter of Determination

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Seattle District Office
Federal Office Building
909 First Avenue, Suite 400
Seattle, Washington 98104-1061
Telephone (206) 220-6983
Fax (206) 220-6911

1 with a finding of reasonable cause that SuperValue violated Title VII by
2 subjecting Mr. King to religious discrimination in its failure to accommodate
3 his religious needs and discharge.

4 3. The Commission filed its Complaint on September 11, 2002 in the
5 United States District Court for the Eastern District of Washington. The
6 complaint alleges that SuperValu violated Title VII by subjecting Mr. King to
7 disparate treatment, including failure to accommodate his religious needs and
8 discharge on the basis of his religion.

9 4. Defendant denied the allegations of discrimination in the EEOC's
10 complaint and asserted various affirmative defenses.

11 5. The parties want to conclude fully and finally all claims arising out
12 of the EEOC's complaint and the charge of discrimination filed with the EEOC
13 by Roger C. King. They enter into this Consent Decree to further the objectives
14 of equal employment as set forth in Title VII.

15 II. NONADMISSION OF LIABILITY AND NONDETERMINATION
16 BY THE COURT

17 6. This Consent Decree is not an adjudication or finding on the merits
18 of this case and shall not be construed as an admission by Defendant of a
19 violation of Title VII.

20 III. JURISDICTION AND VENUE

21 7. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
22 1331, 1337, 1343 and 1345. This action is authorized pursuant to Sections
23
24

1 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42
2 U.S.C. §§ 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of
3 1991, 42 U.S.C. § 1981a. The employment practices alleged to be unlawful in
4 the complaint filed herein occurred within the jurisdiction of the United States
5 District Court for the Eastern District of Washington.

6 IV. SETTLEMENT SCOPE

7 8. This Consent Decree and a individual settlement agreement with Mr.
8 King are the final and complete resolution of all allegations of unlawful
9 employment practices contained in Mr. King's discrimination charge, in the
10 EEOC's administrative determinations, and in the complaint filed herein,
11 including all claims by the parties for attorney fees and costs.

12 V. MONETARY RELIEF

13 9. In full settlement of this lawsuit, SuperValu agrees to pay to Roger
14 C. King Twelve Thousand Five Hundred Eighty-six and 80/100 Dollars
15 (12,586.80), less lawful deductions, for lost wages. A check in this amount will
16 be mailed directly to Mr. King at his home address within fifteen (15) business
17 days of the date of this Consent Decree is entered by the Court. SuperValu also
18 agrees to make pension contributions to the Western Conference of Teamsters
19 Pension Trust on behalf of Roger King for 160 hours in 2001 and 520 hours in
20 2002 in the amount of Two Thousand Twenty-Six and 40/100 Dollars
21 (\$2,026.40). Pension contributions to the Western Conference of Teamsters
22 Pension Trust on behalf of Roger King must be made within fifteen (15)

1 business days of the date this Consent Decree is entered by the Court.

2 VI. AFFIRMATIVE AND OTHER RELIEF

3 "SuperValu" as hereinafter mentioned refers to the Spokane SuperValu
4 Branch.

5 A. General Provisions

6 10. SuperValu, its officers, agents, and employees will refrain from
7 engaging in practices which unlawfully discriminate against employees on the
8 basis of religion. In recognition of its obligations under Title VII, SuperValu
9 will retain policies and practices designed to prevent discrimination in
10 employment.

11 B. Anti-Discrimination Policies and Procedures

12 11. SuperValu shall maintain its anti-discrimination policies,
13 procedures for employees, supervisors and management personnel and will
14 provide equal employment opportunities for all employees. SuperValu will
15 evaluate and, where appropriate, modify the practices of its managers and
16 supervisors in order to prevent discrimination in employment. SuperValu will
17 ensure that its managers and supervisors understand its Equal Employment
18 Opportunity (EEO) policies and how those policies define and identify what
19 constitutes employment discrimination.

20 12. Within sixty (60) days of the date of the effective date of this
21 Consent Decree, SuperValu will review its EEO policy, and revise it as
22 necessary, to ensure that it prohibits religious discrimination and addresses
23

24

1 SuperValu's obligation to accommodate the religious beliefs of its employees.

2 C. Expungement of Records

3 13. Defendant will not disclose any information or make references to
4 any charge of discrimination or this lawsuit in responding to employment
5 reference requests for information about Roger C. King.

6 14. Defendant will expunge from the personnel files of Mr. King any
7 references to a charge of discrimination against Defendant and this lawsuit. If
8 Mr. King wishes to do so, SuperValu will permit him to review his personnel
9 file within thirty (30) days after the entry of this Consent Decree to ensure that
10 all such references have been expunged. SuperValu will not add to the
11 personnel files of Mr. King any references to his charges of discrimination and
12 this lawsuit after such references have been expunged.

13 D. Training

14 15. In the event that during the duration of this consent decree
15 SuperValu re-initiates operations in its Spokane Transportation Department the
16 following Training Requirements will be required.

17 16. Within one hundred and twenty (120) days of the re-initiation of
18 Transportation Operations, and annually thereafter, SuperValu will develop and
19 present to all managers three (3) hours of training on employment
20 discrimination, including religious discrimination and the employer's
21 reasonable accommodation obligations. The EEOC will have an opportunity to
22 review the training materials prior to the training date.

23

24

1 17. SuperValu will notify the EEOC of the completion of the training
2 and will specify the names and job titles of the employees who participated in
3 and completed the training as part of its regular reporting to the EEOC as
4 provided below in paragraph 20.

5 E. Policies Designed to Promote Supervisor Accountability

6 18. SuperValu agrees that it shall impose substantial discipline -- up to
7 and including termination, suspension without pay or demotion -- upon any
8 supervisor or manager who engages in religious discrimination or with active or
9 constructive knowledge permits any such conduct to occur in his or her work
10 area or among employees under his or her supervision, or who retaliates against
11 any person who complains or participates in any investigation or proceeding
12 concerning any such conduct. SuperValu shall communicate this policy to all
13 of its supervisors and managers.

14 19. SuperValu agrees that it shall continue to advise all managers and
15 supervisors of their duty to actively monitor their work areas to ensure
16 employees' compliance with the company's EEO policy, and to report any
17 incidents and/or complaints of discrimination or retaliation of which they
18 become aware.

19 F. Reporting

20 20. In the event that SuperValu re-initiates Transportation Operations
21 in the Spokane Facility, it shall report in writing and in affidavit form to the
22 EEOC on an annual basis, beginning six (6) months from the date SuperValu re-
23

1 initiates its Transportation Operations in the Spokane Facility, and thereafter
2 every twelve (12) months for the duration of the decree the following
3 information:

- 4 a. Certification of the completion of three (3) hours of training and
5 list of attendees;
- 6 b. Certification that its EEO policy has been distributed to all current
7 and newly hired employees in the Transportation Operations at the
8 Spokane Facility;
- 9 c. A list of any changes, modifications, revocations or revisions to its
10 EEO policies and procedures which concern or affect the subject of
11 religious discrimination or retaliation.
- 12 d. A summary of all complaints of religious discrimination made
13 during the relevant annual reporting period and an explanation as
14 to SuperValu's response to such complaints; and
- 15 e. A statement listing the other provisions of this Decree that
16 defendants are required to perform and certifying that SuperValu
17 has complied with the terms of the Decree. If SuperValu has not
18 complied with any term of the Decree, the statement will specify
19 the areas of noncompliance, the reason for the noncompliance, and
20 the steps taken to bring the defendants into compliance.

21 G. Posting

22 21. SuperValu will post a Notice, attached as Exhibit 1 to this Consent
23 Decree. The Notice shall be posted on a centrally located bulletin board at the
24 Spokane Facility to which all employees have access for the duration of the
Consent Decree.

VII. ENFORCEMENT

21 22. If the EEOC determines that SuperValu has not complied with the
22 terms of this Decree, the EEOC will provide written notification of the alleged
23
24

1 breach to SuperValu. The EEOC will not petition the court for enforcement of
2 the decree for at least thirty (30) days after providing written notification of the
3 alleged breach. The 30-day period following the written notice shall be used by
4 the parties for good faith efforts to resolve the dispute.

5 VIII. RETENTION OF JURISDICTION

6 23. The United States District Court for the Eastern District of
7 Washington shall retain jurisdiction over this matter for the duration of the
8 decree.

9 IX. DURATION AND TERMINATION

10 24. This Decree shall be in effect for two (2) years beginning the date
11 the Consent Decree is entered. If the EEOC petitions the Court for breach of the
12 Decree, and the Court finds SuperValu to be in violation of the terms of the
13 Decree, the Court may extend the duration of the Decree.

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21

22

23

24

X. CONCLUSION

25. The parties are not bound by any provision of this decree until it is signed by authorized representatives of each party and entered by the Court.

Dated this 17th day of March, 2003.

A. LUIS LUCERO, JR.
Regional Attorney

GWENDOLYN YOUNG REAMS
Associate General Counsel

KATHRYN OLSON
Supervisory Trial Attorney

TERI HEALY
Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
COMMISSION
Seattle District Office

EQUAL EMPLOYMENT
OPPORTUNITY

Office of the General
Counsel
1801 "L" Street, N.W.
Washington, D.C. 20507
Telephone (202) 663-4702

BY: Kathryn Olson

Attorneys for Plaintiff

LAURIE JOHNSTON
JACKSON LEWIS, LLP
One University Square
600 University Street, Suite 2900
Seattle, WA 98101
Telephone (206) 405-0404

BY: _____

Attorneys for Defendant

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Seattle District Office
Federal Office Building
909 First Avenue, Suite 400
Seattle, Washington 98104-1061
Telephone (206) 220-8883
Fax (206) 220-6911

1 X. CONCLUSION

2 25. The parties are not bound by any provision of this decree until it is
3 signed by authorized representatives of each party and entered by the Court.

4
5 Dated this 17th day of March, 2003.

6
7 A. LUIS LUCERO, JR.
Regional Attorney

GWENDOLYN YOUNG REAMS
Associate General Counsel

8 KATHRYN OLSON
9 Supervisory Trial Attorney

10 TERI HEALY
Trial Attorney

11 EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION
COMMISSION
13 Seattle District Office

EQUAL EMPLOYMENT
OPPORTUNITY

14 909 First Avenue, Suite 400
Seattle, Washington 98104
15 Telephone (206) 220-6916

Office of the General
Counsel
1801 "L" Street, N.W.
Washington, D.C. 20507
Telephone (202) 663-4702

16 BY: 

17 Attorneys for Plaintiff

18 LAURIE JOHNSTON
JACKSON LEWIS, LLP
19 One University Square
600 University Street, Suite 2900
20 Seattle, WA 98101
Telephone (206) 405-0404

21 BY: 

22 Attorneys for Defendant

23
24
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Seattle District Office
Federal Office Building
909 First Avenue, Suite 400
Seattle, Washington 98104-1087
Telephone (206) 220-6933
Fax (206) 220-6911

ORDER APPROVING CONSENT DECREE

The Court having considered the foregoing stipulated agreement of the parties,

IT IS HEREBY ORDERED THAT the foregoing Consent Decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to any party. The Court retains jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

DATED this 12th day of April, 2004.

SENIOR

UNITED STATES DISTRICT JUDGE

ALAN A. McDONALD

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Seattle District Office
Federal Office Building
909 First Avenue, Suite 400
Seattle, Washington 98104-1081
Telephone (206) 220-6883
Fax (206) 220-6911

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

NOTICE TO ALL EMPLOYEES

This notice is being posted pursuant to an agreement between SuperValu, Inc. and the U.S. Equal Employment Opportunity Commission, entered as the result of a resolution of a lawsuit in federal district court.

Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, and the Americans with Disabilities Act of 1990 are enforced by the EEOC and require the following:

That there be no discrimination against any employee or applicant for employment because of the employee's race, sex, color, religion, national origin, age (over age 40), or disability with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment.

It is an unlawful employment practice for an employer to retaliate against any employees or applicants for employment because they have opposed a practice or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under these statutes.

SuperValu has posted this notice because the company supports and will comply with these federal laws in all respects.

DATED _____

SuperValu, Inc.

BY: _____

Consent Decree
Exhibit 1
Page 1 of 1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Seattle District Office
Federal Office Building
309 First Avenue, Suite 400
Seattle, Washington 98104-1061
Telephone (206) 220-6883
Fax (206) 220-6911