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ATTORNEYS FOR PLAINTIFF EEOC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,
Plaintiff,

Civil No. CV 03-64 HA

and

CONSENT DECREE

WENDY BAKER, CHRISTINE
THOMPSON, LAURIE DAMETZ, and
DONNA EMERSON,
Intervenors,

vs.

UNITED STATES BAKERY, INC.,
Defendant.

I. INTRODUCTION

1. This action originated when Laurie Dametz, Donna Emerson, Wendy Baker, and Christine Thompson (collectively referred to as "Intervenors") filed charges of discrimination with the Equal Employment Opportunity Commission ("EEOC" or "Commission"). They alleged that United States Bakery, Inc. ("USB" or "the Company" or "defendant") discriminated against them because of sex and race in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), when USB subjected them to a hostile work environment.

2. On January 12, 2002, the EEOC issued letters of determination with a finding of reasonable cause to believe that USB violated Title VII.

3. The Commission filed its complaint on January 16, 2003 in the United States District Court for District of Oregon. As relevant here, the complaint alleges that defendant sexually harassed Ms. Dametz, Ms. Emerson, Ms. Baker, and Ms. Thompson because of their sex, creating a hostile environment. EEOC further alleges that defendant harassed Ms. Thompson, an African-American female, based on her race, creating a hostile environment. Ms. Dametz, Ms. Emerson, Ms. Baker, and Ms. Thompson moved to intervene in the EEOC's case and subsequently filed their complaint in intervention on April 12, 2004.

4. USB filed answers denying the allegations of discrimination in the EEOC's complaint and the complaint in intervention and asserted several affirmative defenses.

5. On August 9, 2004, the Court granted the EEOC's motion for partial summary judgment, holding USB liable for sexual harassment against Ms. Dametz, Ms. Emerson, Ms. Baker, and Ms. Thompson and for racial harassment against Ms. Thompson.

6. By entering into this consent decree, the EEOC and USB desire to conclude fully and finally this litigation and to further the objectives of equal employment as set forth in Title VII. This consent decree is the final and complete resolution of all allegations of unlawful employment practices contained in the plaintiffs' discrimination charges, in the EEOC administrative determination, and in the complaint filed herein, including all claims by the parties for attorney fees and costs.

II. INJUNCTIVE RELIEF

General Provisions

7. USB reaffirms its commitment to comply with Title VII. To further this commitment, the Company shall monitor the affirmative obligations of this consent decree. The terms of this consent decree shall apply to all applicants and employees who work out of the Franz facility of USB located at 340 NE 11th Street, Portland, Oregon, and include USB's corporate office in Portland, Oregon. Any reference to applicants or employees in this Decree means the applicants and employees who work at the Franz facility or the corporate office, as noted above.

8. The Company shall not retaliate against any applicant or employee for opposing a practice deemed unlawful by Title VII or for making a charge, testifying, assisting, or participating in any investigation, proceeding, or hearing associated with this action.

9. USB, its officers, agents, and employees, are hereby enjoined from engaging in personnel practices which unlawfully discriminate against applicants and employees in violation of Title VII. In recognition of its obligations under Title VII, USB shall review and revise, as necessary, its policies and practices as set forth herein.

10. USB shall review its policies against discriminatory employment practices (hereinafter referred to as "policies"), and revise them as necessary to comply with the objectives in paragraph 14 below. USB shall submit its policies to the EEOC for review and approval. Once approved by the EEOC, USB shall distribute its policies to all present and future employees, management and non-management, temporary and permanent, beginning 45 days after approval by the EEOC and continuing for the duration of the decree. Distribution shall be through postings in the workplace. All new hires shall receive a copy of the policies upon hire. Existing employees shall receive a copy of the policies and shall sign an acknowledgement of receipt.

11. USB affirms the following "Statement of Zero-Tolerance Policy and Workplace Objectives":

U.S. Bakery, Inc., is firmly committed to developing and maintaining a zero-tolerance policy concerning sex discrimination, sexually-based harassment, race discrimination and racially-based harassment against individuals who report discrimination or harassment in the company's workplace; to promptly responding to any acts of sex discrimination, sexually-based harassment, race discrimination or racially-based harassment of which the company becomes aware; to implementing a disciplinary system that is designed to deter future acts of sex discrimination, sexual harassment, race discrimination or racial harassment; to eradicating any vestiges of a work environment that is sexually or racially hostile to individuals; and to monitoring its workplace

in order to ensure tolerance, respect and dignity for all people.

Expunging Records

12. Defendant shall not disclose any information or make references to any charges of discrimination or this lawsuit in responding to employment reference requests for information about the Intervenor.

13. Defendant agrees that no information about the Intervenor's claims of discrimination against defendant and this lawsuit shall be maintained in their personnel files. Files containing information about the Intervenor that have been developed during the subject litigation shall be maintained at the offices of defendant's counsel, Tonkon Torp, for the term of this decree. Defendant shall make the Intervenor's personnel files available for inspection by EEOC counsel at the offices of Tonkon Torp.

Specific Non-Monetary Relief

14. In order to effectuate the objectives embodied in USB's Statement of Zero-Tolerance Policy and Workplace Objectives and this Decree, USB shall review and modify, if necessary, its existing policies, procedures and practices to ensure that the following policies, procedures and practices are in effect:

- (a) Sex Discrimination and Harassment Policy. USB agrees that it shall review and revise its discrimination and harassment policy, as necessary, in order to:
 - (i) provide clear definitions and examples of prohibited sex and race discrimination, and sexual and racial harassment;
 - (ii) provide for substantial and progressive discipline for incidents of

- sex and race discrimination, sexual and racial harassment;
- (iii) provide that complaints of sex and race discrimination, sexual and racial harassment shall be accepted by USB in writing and orally (however, USB may request oral complaints be followed up in writing);
 - (iv) provide a timetable for reporting a complaint, for commencing an investigation after a complaint is made or received, and for remedial action to be taken upon conclusion of an investigation; and
 - (v) provide that upon the conclusion of its investigation of a complaint, USB shall inform the complaining party of the results of the investigation and remedial actions taken or proposed, if any.
- (b) Complaint Procedures.
- (i) USB agrees that it shall institute a complaint procedure designed to encourage employees to come forward with complaints about violations of its sex and race discrimination and harassment policies. As part of this complaint procedure, USB agrees that it shall provide its employees with convenient, confidential and reliable mechanisms for reporting incidents of sex and race discrimination and harassment. USB agrees that it shall designate at least two upper management employees to report incidents of discrimination, harassment or retaliation prohibited by their

policies, including their job titles, work locations and phone numbers.

- (ii) USB agrees that it shall enable complaining parties to be interviewed by USB about their complaints in a private office or conference room. USB agrees that its complaint procedure shall not impose upon individuals seeking to make a complaint alleging sex or race discrimination or harassment any requirements that are more burdensome than are imposed upon individuals who make other complaints of comparable gravity.
- (iii) USB agrees that its policies and procedures shall provide that complaints of sex and race discrimination or harassment shall be investigated and addressed. Specifically, USB agrees that it shall make best efforts to investigate complaints promptly and to complete investigations in a timely manner, defined as three (3) weeks to six (6) weeks from the date each complaint was received by the HR manager. USB shall further make best efforts to prepare its written investigative findings and its proposed remedial actions within ten (10) days after completion of the investigation, and shall communicate to the complaining party its findings along with the remedial actions taken or proposed, if any.
- (iv) USB agrees that it shall make best efforts to ensure that appropriate remedial action is taken to resolve complaints and that

the remedial measure shall deter the occurrence of further incidents of sex or race discrimination or harassment. USB further agrees that it shall revise its progressive discipline policy to provide for substantial discipline short of termination -- including, but not limited to, suspensions without pay -- as a possible consequence for violations of its discrimination and harassment policy.

(c) Policies Designed To Promote Supervisor Accountability.

- (i) USB agrees that it shall apply its progressive discipline policy to any supervisor or manager who engages in sex or race discrimination or harassment, or who knowingly permits any such conduct to occur in his or her work area or among employees under his or her supervision, or who retaliates against any person who complains or participates in any investigation or proceeding concerning any such conduct. USB shall communicate this policy to all of its supervisors and managers.
- (ii) USB agrees that it shall continue to advise all managers and supervisors of their duty to report any incidents and/or complaints of sex or race discrimination or harassment of which they become aware to the HR manager, who is charged with handling such complaints.
- (iii) USB agrees that it shall include a commitment to equal employment opportunity as a criterion for qualification for

supervisory positions.

- (iv) USB agrees to add a category to the performance evaluation for supervisors entitled "Enforces Company Policies: [including EEO policies].

(d) Sexual Harassment Training.

- (i) USB agrees that it shall provide mandatory annual discrimination and harassment training to all employees, including supervisors; to provide mandatory discrimination and harassment training to all new employees during employee orientation (the nature of training during orientation of new employees may be via videotape or other format as approved by the counsel for USB); to provide mandatory discrimination and harassment training to all senior management officials; and to provide training to all persons charged with the handling of complaints of sex or race discrimination, or harassment in the workplace, and the techniques for investigating and preventing it.
- (ii) U.S. Bakery agrees that all training required by this Decree shall be conducted by the Human Resources Manager, except that training of executive management shall be by the VP of HR for USB. USB agrees that it shall require a member of management to introduce all discrimination and harassment training to communicate USB's commitment to its Statement of Zero-

Tolerance Policy and Workplace Objectives.

Consent Decree Review and Compliance

15. USB shall work with its legal counsel to comply with the requirements of this consent decree. The EEOC shall agree to the appointment of Lynda Hartzell, an attorney with the Portland firm of Tonkon Torp LLP experienced in employment law (legal counsel), to work with the EEOC and USB to effectuate the purposes of this consent decree, to provide assistance and training as necessary, and to assist with USB's policy and reporting requirements. In her absence, the EEOC shall agree that USB shall work with another Tonkon Torp attorney (legal counsel) who is experienced in employment law.

16. Within two (2) months after the entry of the consent decree by the court USB shall submit to the EEOC for review and comment all current employment policies that relate to the Statement of Zero-Tolerance Policy and Workplace Objectives. The EEOC may make recommendations for further modifications to such policies, and the final version of the policies shall be implemented within one (1) month after any modifications by the EEOC.

17. Within twelve (12) months after the entry of the consent decree by the court, USB shall complete a report of all training performed as required by this consent decree, along with a copy of the training materials.

18. Within twelve (12) months after the entry of the consent decree by the court, USB shall submit a report to the EEOC with the following:

- Affirmation of compliance with policy distributions and postings.
- Affirmation of training compliance.

19. For the duration of the consent decree, USB shall review with its legal

counsel the implementation of its employment policies and practices relating to USB's Statement of Zero-Tolerance Policy and Equality Objectives.

20. USB shall be responsible for the implementation of all non-monetary relief under the terms of this consent decree, except as otherwise provided herein. USB shall not be precluded from developing and implementing its own programs as it may deem appropriate.

Monitoring Complaints

21. As noted above, legal counsel for USB shall work with USB and review any reported race or sex discrimination or harassment complaints by USB employees or applicants. The review shall include a review of the investigation, findings, and remedial measures. USB shall make a good faith best effort to follow any recommendations, if any, made by legal counsel concerning the complaint process, the investigations, the findings, and/or the remedial measures.

22. Except for communications between USB, its legal counsel and the EEOC as required by this consent decree, all communications between USB and its legal counsel are privileged and confidential.

Reporting

23. In addition to the reporting requirements in this consent decree, USB shall submit a final report to EEOC 30 days before the consent decree expires containing a statement that it has complied with all the terms of this consent decree.

ENFORCEMENT

24. If the EEOC concludes that USB has breached this Agreement, it may bring an action in the United States District Court for the District of Oregon to enforce this

consent decree. Before bringing an action for breach of the decree, the EEOC shall first give the Company 20 days' notice of the nature of the breach and the remedy to cure the breach. The EEOC and the Company shall use that 20-day period for good faith efforts to resolve the matter. No action may be filed after the expiration of 45 days after the term of the consent decree.

RETENTION OF JURISDICTION

25. The United States District Court for the District of Oregon shall retain jurisdiction over this matter for the duration of the decree.

DURATION AND TERMINATION

26. This consent decree shall be in effect until for three (3) years from the date of the entry of the decree by the court. If the EEOC petitions the court for breach of agreement, and the court finds the Company to be in violation of the terms of the consent decree, the court may extend this consent decree.

CONCLUSION

27. The provisions of this consent decree are not binding on the parties until the authorized representatives of each party sign and the court enters the consent decree in the court.

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DATED this 10th day of July, 2006.

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