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U. S. DISTRICT COURT
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
AUSTIN DIVISION

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U.S. CLERK'S OFFICE
BY: MJC
DEPUTY

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.) Civil Action No. A 98CA349ADA
)
AUSTIN CONSTRUCTION COMPANY, INC.,)
)
Defendant.)
_____)

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), and Defendant, Austin Construction Company, Inc., ("ACCI"). This Consent Decree resolves the above-referenced Civil Action No. A-98-CA-349-ADA. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. §1981a. The Complaint was filed to correct unlawful employment practices on the basis of sex (female) and to provide appropriate relief to Diana L. Hix and a class of similarly situated females who were adversely affected by such practices. The Commission is alleging that Diana L. Hix and a class of similarly situated females were subjected to a hostile work environment because of their sex, female, while they were employed by ACCI.

The EEOC and ACCI wish to settle this action, without the necessity of further litigation, pursuant to the terms delineated in this Decree.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of the action and the parties, venue is proper, and all administrative prerequisites to the filing of this action have been met. The Complaint states claims on behalf of Diana L. Hix and a class of females, if which, proved, would authorize this Court to grant relief against ACCI, pursuant to Title VII.

2. This Decree resolves those claims against ACCI raised in EEOC's Complaint in this case. EEOC expressly reserves its right to process and litigate any other charges which may now be pending or may in the future be filed against Defendant ACCI.

3. The duration of this Decree shall be two years from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Decree and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of its provisions. Any violation of the Consent Decree by ACCI or its officers, directors, employees, agents, or assigns shall toll the running of this two-year period as of the date of violation. If the Court subsequently determines this Decree was violated, the two-year period shall recommence and continue from the date of entry of an Order setting

out such a violation or until such time as ordered by the Court. Should the Court find the Decree was not violated, the two-year period shall recommence, retroactive to the date of the filing of the pleading alleging that a violation had occurred.

4. Defendant ACCI and its officers, directors, employees, agents or assigns are enjoined from harassing Diana L. Hix, or any other employee(s), past, present, or future, because of sex. The conduct enjoined includes creating or contributing to a hostile environment of sexual harassment and permitting sexual harassment by any employee.

5. Defendant ACCI is enjoined from retaliating in any manner whatsoever, against Diana L. Hix, or any other past, present, or future employee for opposing any employment practice made unlawful by Title VII, or for filing a discrimination charge, giving testimony or assistance, or participating in any manner in any investigation, proceeding, hearing or action under Title VII.

6. During the term of this Decree, the EEOC shall have the right to inspect ACCI's facilities and interview then-current employees at any time.

7. Defendant ACCI shall make no mention of the filing of this Complaint or the underlying charge to anyone, including Diana L. Hix's prospective employers. Defendant ACCI shall, within 10 days of the filing date of this Decree, remove from its records and files any notations, remarks or other indications evidencing that

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Diana L. Hix opposed any employment practice made unlawful by Title VII, or filed a discrimination charge, gave testimony or assistance, or participated in any manner in any investigation, proceeding, or hearing under Title VII. If asked for references or a letter of reference regarding Diana L. Hix, Defendant ACCI shall provide positive references or a positive letter of reference in the format attached hereto as Exhibit A. Defendant ACCI shall make no other statement to prospective employers regarding Diana L. Hix. This provision shall survive the expiration of the Decree.

8. To further the ends of this Consent Decree, within ninety (90) days of the date of entry of this Decree, all ACCI supervisory and management employees, shall participate in sexual harassment training of not less than 8 hours. This training shall: (a) explain the law relating to sexual harassment under Title VII; (b) instruct what conduct may create or contribute to a hostile environment of sexual harassment and/or condone or tolerate sexual harassment; and (c) explain the damaging effects of sexual harassment to victims, their families, their co-workers, and the workplace environment. In addition, the training shall teach non-discriminatory work and management techniques when interfacing or interacting with other employees and the responsibilities of supervisory employees to provide prompt and effective relief to individuals who complain of sexual harassment. Within 20 days prior to the date scheduled for this training, ACCI shall furnish

to the EEOC a written report describing the sexual harassment training to be attended by the employees referred to in this paragraph, identifying the instructor(s) and describing their qualifications to conduct such training, and the EEOC shall have the right to approve the training or the instructor.

9. Defendant ACCI, in settlement of this dispute, shall pay Diana L. Hix the sum of \$4,000.00, in certified funds or by cashiers check, within 15 days of entry of this Consent Decree. Such payment shall be mailed directly to Diana L. Hix at 1003 Garfield Dr., Granite Shoals, Texas 78654.

A copy of the check and accompanying transmittal papers shall be contemporaneously forwarded to Robert B. Harwin, Regional Attorney, Equal Employment Opportunity Commission, Mockingbird Plaza II, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

10. Defendant ACCI shall post a notice, for at least the duration of this Decree, of its intent to comply with Title VII. Such notice shall be as set forth in Exhibit "B," which is attached to this Decree. A copy of Exhibit "B" shall be posted in a conspicuous place at ACCI's establishments located in Austin, Texas within ten days of the filing date of this Decree.

11. The term of this Decree shall be binding upon the EEOC and Defendant ACCI and its officers, directors, employees, agents, as to those issues resolved herein.

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12. Each party shall bear its own costs, including attorney's fees, incurred in this action.

13. The parties agree that there is no prevailing party in this action or proceeding.

The Clerk shall furnish a copy hereof to each attorney of record.

SO ORDERED.

Signed this 21st day of DECEMBER, 1998.

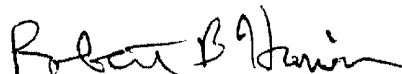


United States District Judge
Alan D Albright
United States Magistrate Judge

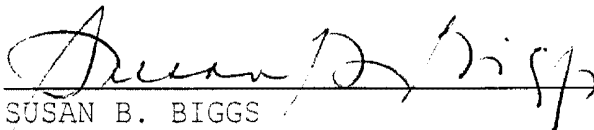
Respectfully Submitted,

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

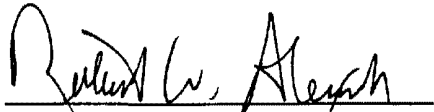


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Texas State Bar No. 02312500

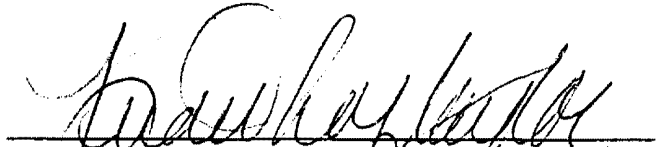




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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
San Antonio District Office
5410 Fredericksburg Road
Suite 200
San Antonio, Texas 78229-3555
(210) 281-7673
(210) 281-7669 (Fax)

ATTORNEYS FOR PLAINTIFF

[Austin Construction Company, Inc. letterhead]

To whom it may concern:

Diana L. Hix was employed at Austin Construction Company, Inc. as a [position] from [dates of employment]. During her tenure, she held the position(s)/title(s) of _____, and she performed all of her job duties in an excellent manner.

Sincerely,

EXHIBIT "A"

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**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SAN ANTONIO DISTRICT OFFICE**

5410 Fredericksburg Road - Suite 200
San Antonio, Texas 78229

Office: (210) 281-7600
FAX (210) 281-7606
TDD (210) 281-7610
WebSite: www.eeoc.gov

NOTICE TO ALL EMPLOYEES

AUSTIN CONSTRUCTION COMPANY, INC. IS FIRMLY COMMITTED TO TREATING EMPLOYEES AND APPLICANTS FOR EMPLOYMENT ACCORDING TO MERIT WITHOUT REGARD TO THEIR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, OR THEIR HAVING ENGAGED IN ACTIVITY PROTECTED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, INCLUDING RECRUITMENT, RETENTION, PROMOTION, TRANSFER, LAYOFF AND/OR TERMINATION, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT. AUSTIN CONSTRUCTION COMPANY WILL SPECIFICALLY NOT TOLERATE SEXUAL HARASSMENT OF ITS EMPLOYEES.

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, OR THAT YOU ARE BEING SUBJECTED TO HARASSMENT BECAUSE OF YOUR SEX, OR HAVING ENGAGED IN TITLE VII PROTECTED ACTIVITY, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 5410 FREDERICKSBURG ROAD, SUITE 200, SAN ANTONIO, TEXAS 78229-3550, (210) 281-7600 OR 1-800-669-4000.

EXHIBIT "B"

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NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

EEOC ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN; THE AGE DISCRIMINATION IN EMPLOYMENT ACT; THE EQUAL PAY ACT; PROHIBITIONS AGAINST DISCRIMINATION AFFECTING INDIVIDUALS WITH DISABILITIES IN THE FEDERAL SECTOR; SECTIONS OF THE CIVIL RIGHTS ACT OF 1991, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT, WHICH PROHIBITS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN THE PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.

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