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OCT 31 2002

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
ENTERED

NOV 04 2002

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

McCALL-T, Ltd., d/b/a  
STERLING McCALL TOYOTA,

Defendant.

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Michael N. Milby, Clerk of Court  
CIVIL ACTION NO. H-02-0641

JURY TRIAL

CONSENT DECREE

The Equal Employment Opportunity Commission ("Commission" or "EEOC") has alleged that Defendant McCall-T, Ltd., d/b/a Sterling McCall Toyota is liable for retaliation, in violation of Title VII of the Civil Rights Act of 1964, and Title I of the Civil Rights Act of 1991. The EEOC's lawsuit alleges that Defendant violated these federal statutes by discharging Nosakhare Ajayi and Chinenye N. Sunday from sales positions in retaliation for their having complained that salesmen of Nigerian national origin were being subjected to unfair and discriminatory employment practices by Defendants. Defendant has not admitted and does not admit that it has engaged in any unlawful employment practices and no court finding of any unlawful employment practice has been made.

The parties stipulate to the jurisdiction of the Court and waive a hearing and the entry of findings of fact and conclusions of law.

It is therefore ORDERED that:

1. This Consent Decree is entered in full and complete settlement of any and all claims

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arising out of or contained in this lawsuit, Civil Action No. H-02-0641, and in EEOC Charge Nos. 330-A1-0871 and 330-A1-0873.

2. Neither the negotiation, nor the execution, nor the entry of this Consent Decree shall constitute an acknowledgment or admission of any kind by Defendant that its officers, agents or employees have violated, or have not been in compliance with, Title VII or any other applicable law, regulation or order. The parties agree that this Consent Decree is not evidence of any alleged violation of, or non-compliance with, Title VII.

3. McCall-T, Ltd., d/b/a Sterling McCall Toyota ("McCall") agrees that it will not engage in any employment practices which violate Title VII by unlawfully retaliating against any individual because of his complaints of discrimination, or because he opposed any practice made an unlawful employment practice by Title VII, or because he has provided testimony or evidence related to this lawsuit or to the investigation of EEOC Charge Nos. 330-A1-0871 and 330-A1-0873.

4. While this Consent Decree is in effect, all Defendant's managers in the greater Houston area will receive annual training on federal anti-discrimination laws, including Title VII. The training shall include specific instruction on avoiding unlawful retaliation against employees who complain about conduct which they believe to be discrimination based on national origin or any other discrimination made unlawful by Title VII. Prior to such training session, the Houston District Office of the EEOC shall receive a copy of the training presentation outline. Within ten (10) days after the completion of the training, the EEOC shall be provided with a statement listing the date on which the training was completed; the names of all attendees, their job titles, and the dealerships at which they work; and all topics in the training presentation outline that were covered.

5. Defendant agrees to pay Nosakhare Ajayi SIXTY-SEVEN THOUSAND FIVE

HUNDRED DOLLARS (\$67,500.00). Within ten (10) calendar days from the date of entry of this Decree, Defendant shall send a check in the amount of \$ \$67,500.00 to Nosakhare Ajayi. The check shall be mailed via certified mail, return receipt requested, to Mr. Ajayi at his home address, which will be supplied to Defendant by Plaintiff. A copy of the check shall be sent concurrently to the Commission at the following address: Equal Employment Opportunity Commission, attn: Timothy M. Bowne, 1919 Smith Street, 7th Floor, Houston, Texas 77002.

6. Defendant agrees to pay Chinenye Sunday SIXTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$67,500.00). Within ten (10) calendar days from the date of entry of this Decree, Defendant shall send a check in the amount of \$ 67,500.00 to Chinenye Sunday. The check shall be mailed via certified mail, return receipt requested, to Mr. Sunday at his home address, which will be supplied to Defendant by Plaintiff. A copy of the check shall be sent concurrently to the Commission at the following address: Equal Employment Opportunity Commission, attn: Timothy M. Bowne, 1919 Smith Street, 7th Floor, Houston, Texas 77002.

7. The parties agree that Twenty Two Thousand Two Hundred Seventy-Five Dollars (\$22,275.00) of the settlement amounts paid to each Sunday and Ajayi constitute back wages, and that this amount is subject to legal deductions. The parties agree that the remainder of the settlement amounts are payment for compensatory damages, including emotional distress. Chinenye Sunday and Nosakhare Ajayi agree that except for the amounts allocated to back pay, they will be liable for federal, state and local income taxes if any are determined to be applicable to the settlement amount. Chinenye Sunday and Nosakhare Ajayi further agree to indemnify and hold Defendant harmless from tax liability that they may incur as a result of the payments made to them pursuant to this Agreement except the amount allocated to back pay.

8. Defendant agrees to segregate in separate, confidential folders all documents related to Mr. Ajayi's and Mr. Sunday's charges of discrimination and the Commission's lawsuit. These documents shall not be part of their personnel file. Further, Defendant agrees not to reference any of the following to any potential employer of Mr. Sunday or Mr. Ajayi: their charges of discrimination, the Commission's lawsuit, or this Consent Decree entered in the Commission's lawsuit.

9. Defendant agrees to provide prospective employers of Chinenye Sunday and Nosakhare Ajayi their names, dates of employment with Defendant and last positions held, and will state that the fact that no further information is provided does not reflect negatively on Mr. Sunday and Mr. Ajayi, but is consistent with Defendant's policy concerning job references.

10. Six (6) months from the date of entry of this Decree and again eighteen (18) months from the date of entry of this Decree, Defendant shall provide to the Houston District Office of the EEOC a report on their efforts to comply with the terms of the Decree. These reports should be directed to the attention of Lloyd van Oostenrijk.

11. If the Commission decides to issue a press release regarding this Consent Decree, the press release agreed to by the parties prior to the execution of this Decree will be issued.

12. This Decree shall remain in effect for two (2) years from the date of signing. During such time, the Court shall retain jurisdiction to assure compliance with this Decree and to permit entry of such further orders or modifications as may be necessary or appropriate.

13. The parties agree that this civil action will be dismissed, with prejudice, subject to the Consent Decree.

14. The parties shall bear their own costs and attorney's fees.

Signed on this 4th day of November, 2002.

A handwritten signature in cursive script, appearing to read "Marcia A. Crone", written over a horizontal line.

Marcia A. Crone  
United States Magistrate Judge