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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

Equal Employment Opportunity)	
Commission,)	Case No. 2:06-CV-00751 DAK
)	Judge: Dale A. Kimball
Plaintiff,)	
vs.)	
)	CONSENT DECREE
Hamlet Development Corp., Hamlet Homes)	
Corp., Stirling Mortgage Corp., and)	
Diversified Habitats 1, L.L.C., ("the Hamlet)	
Companies"),)	
)	
Defendants,)	

The Commission filed this action against Hamlet Development Corp., Hamlet Homes Corp., Stirling Mortgage Corp., and Diversified Habitats 1, L.L.C., collectively referred to herein as the "Hamlet Companies" to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq. ("Title VII") and the Civil Rights Act of 1991, 42 U.S.C. § 1981a. In the Complaint, the Commission alleged that Charging Party Julie Williams Sparks and a class of

females were subjected to a hostile work environment due to sexual harassment in the workplace. In addition, the Commission alleged that Ms. Williams Sparks was discharged from employment in retaliation for her opposition to practices made unlawful by Title VII. The Defendants dispute the charges and deny that they engaged in any wrongful conduct.

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.

The Hamlet Companies consent to the jurisdiction of the Court for purposes of entry and enforcement of this Decree. The Hamlet Companies do not waive any rights to contest in future cases (1) the applicability of any statutes the enforcement of which the EEOC has been given jurisdiction or (2) the jurisdiction of the EEOC in any subsequent matters which may be brought by any other party alleging a violation of any such statutes.

It is hereby **ORDERED, ADJUDGED AND DECREED:**

1. This decree resolves all claims of the Commission against the Hamlet Companies on behalf of Julie Williams Sparks and the class of females identified in Exhibit A, including claims for back pay, compensatory and punitive damages, interest, injunctive relief, attorney's fees and costs arising out of the issues relating to this lawsuit.
2. The Court has jurisdiction of the subject matter of this action and of the parties.
3. The terms and provisions of the Consent Decree are adequate, fair, reasonable, equitable, and just. The rights of the parties are adequately protected by this Consent Decree.
4. This Consent Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights and privileges of any person. The entry of this Consent Decree will further the objectives of Title VII and will be in the best interests of Defendants, the

Commission and the public.

INJUNCTION

5. The Hamlet Companies, its owners, stockholders, managers, agents, officers, employees, successors and assigns and all persons in active concert or participation with them, are permanently enjoined for the duration of the decree from discriminating against any employee because of his or her sex, including subjecting employees or individuals to sexual harassment. This injunction will remain in effect for the duration of the decree at any facility operated by the Hamlet Companies in the state of Utah.

6. The Hamlet Companies, its owners, stockholders, managers, agents, officers, employees, successors and assigns and all persons in active concert or participation with them, is permanently enjoined for the duration of the decree from retaliating against any employee or individual because the employee or individual has (a) opposed practices made unlawful by Title VII or a state equal employment opportunity statute, (b) filed a charge of discrimination, including sexual harassment, (c) assisted or participated in the filing of a charge of discrimination, including sexual harassment, (d) assisted or participated in an investigation or proceeding under Title VII or a state equal employment opportunity statute, or (e) files an internal complaint of discrimination. This injunction will remain in effect for the duration of the decree at any facility operated by the Hamlet Companies in the state of Utah.

RELIEF TO CHARGING PARTY AND CLASS

7. The Hamlet Companies shall pay the total amount of \$174,186.65 payable to Julie Williams Sparks and the class of females as designated in Exhibit A. For the

payment of back pay to Julie Williams Sparks and Amanda Reed Finn, the Hamlet Companies may make lawful employer deductions for FICA and FUTA as long as such deductions are described in writing to Ms. Williams Sparks and Ms. Reed Finn. For all payments representing compensatory damages for personal injuries, the Hamlet Companies shall issue each payee a form 1099 in the amount of such payment. The Commission retains the sole discretion to apportion the compensatory damage amounts between the eligible class claimants identified in Exhibit A. The settlement checks shall be paid within ten (10) business days after entry of the Consent Decree. In order to receive the payment identified in Exhibit A, the Charging Party and each class member must execute a copy of the Release of Title VII Claims (a copy of which is attached as Exhibit C).

8. The checks provided for in Paragraph 7 and Exhibit A of this Decree shall be made payable to each of the individuals listed in Exhibit A in the amounts designated by the Commission. The checks shall be mailed directly to the Exhibit A list of claimants at the addresses provided by the Commission. Within five (5) days of issuance of the checks, the Hamlet Companies shall submit a copy of the checks and any related correspondence to the Regional Attorney, Equal Employment Opportunity Commission, Albuquerque Area Office, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189.

9. In response to any employment inquiries or reference checks concerning Julie Williams Spark or any class member, the Hamlet Companies shall provide only their dates of employment, each position held, and job duties. This provision shall remain in force for so long as Ms. Williams Sparks or any class member uses the Hamlet Companies as a reference and is not limited to the two years duration of this decree.

10. The Hamlet Companies shall not take any action against Julie Williams Sparks, any class member, any witness in this proceeding or any other individual in retaliation for filing a charge of employment discrimination or for participating, assisting or testifying in this action.

DEFENDANT'S CORRECTIVE POLICIES AND PRACTICES

11. The Hamlet Companies shall institute and carry out policies and practices that will provide a work environment free from sex discrimination and retaliation, including policies, procedures and practices to prevent sexual harassment of its employees and other individuals, and that allow employees and other individuals to raise concerns or complaints about matters made unlawful by Title VII, whether alleged, perceived or actual without retaliation. To assist the Hamlet Companies in its efforts to provide a work environment free of sex discrimination, sexual harassment and retaliation, the Hamlet Companies shall take the actions provided for in Paragraphs 12 through 14 and 16.

12. Within sixty (60) days of the entry of this decree, the Hamlet Companies shall review any existing policies on sex discrimination, including sexual harassment and retaliation, and make any changes necessary so that their policies and procedures comply with Title VII. The Hamlet Companies shall ensure their written policy includes a statement that employees may complain directly to EEOC or any state equal opportunity agency. The Hamlet Companies shall ensure that its policies and procedures relating to sexual harassment provide for and identify at least one person at each facility in Utah who will have information about the Hamlet Companies' complaint process, who may be designated to receive complaints, and who is responsible for reporting such complaints in a timely manner to the Hamlet Companies' Human

Resources Department. After reviewing and making any necessary revisions to its policies, the Hamlet Companies shall distribute the revised sexual harassment and non-retaliation policies and complaint procedures to each of its current full and part-time employees, and to each new employee hired for the duration of this decree. The policy and procedure statements that are provided to the Hamlet Companies' employees should be designed to present easily understood, convenient, consistent, reliable, and confidential, except as necessary to conduct an appropriate investigation, procedures for reporting incidents of sexual harassment and retaliation occurring at the Hamlet Companies' facilities in Utah. These procedures, at a minimum, shall include provisions incorporating the following:

- A. Within thirty (30) days of entry of this decree and for the duration of this decree, the Hamlet Companies shall designate at least one employee in a supervisory or managerial position to serve as an investigative officer for employees having questions, concerns or complaints about sexual harassment or retaliation. This investigative officer shall be responsible for communicating with employees about the Hamlet Companies' complaint and investigation process, answering employee preliminary inquiries, and investigating complaints of sexual harassment.
- B. Within thirty (30) days of entry of this decree and for the duration of this decree, the name(s), responsibilities, work location, and telephone number of the investigative officer(s) and any appropriate HR department officials will routinely and continuously be posted and provided to all employees so that an employee seeking such name can enjoy anonymity and remain inconspicuous to other

employees.

- C. For the duration of this decree, complaints of sexual harassment or retaliation will be accepted in writing, orally, or anonymously and all complaints will be taken seriously and investigated appropriately.
- D. Only those who have an immediate need to know, including the investigative official(s), HR official(s), the alleged target of harassment or retaliation, the alleged harasser(s) or retaliator(s) and any witnesses, may find out the identity of the complainant.
- E. During an investigation of a sexual harassment complaint of an employee or other individual, investigative officers will have the responsibility for expeditiously and appropriately investigating all complaints.
- F. The investigative officers shall endeavor to immediately interview in person all affected individuals and potential witnesses to the alleged harassment without the presence of any management official who is not required to be present to conduct an appropriate investigation.
- G. All parties contacted in the course of an investigation will be advised that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint, or who has provided evidence in connection with a complaint will not be tolerated and could result in disciplinary action.
- H. Each investigative officer will receive thorough and appropriate training about sexual harassment and sexual harassment investigations. This training shall

consist of at least two hours in addition to that provided under paragraph 14 of this decree.

- I. The investigative officer will recommend remedial measures, if appropriate, based upon the results of the investigation, and the Hamlet Companies will promptly consider and act upon such recommendation.
- J. The investigative officer will maintain a file on the original complaint(s) and any follow-up investigation.
- K. The Hamlet Companies' managers, officials, agents or employees who engage in sexual harassment or retaliation; who fail to cooperate with company-sponsored investigations of sexual harassment or retaliation; or who refuse to implement remedial measures will be advised that they may be sanctioned severely by loss of income, suspension or dismissal.

13. The Hamlet Companies shall post within thirty (30) days of the entry of this consent decree, and continuously for the duration of this decree, in prominent places frequented by employees of their Utah facilities, the Notice attached to this decree as Exhibit B. This Notice shall be the same type, style and size as in Exhibit B.

14. The Hamlet Companies shall provide training on sex discrimination, sexual harassment, and retaliation according to the following terms:

- A. The Hamlet Companies shall provide at least three training sessions during the term of this decree. All owners, managers, supervisors and employees at facilities owned or operated by the Hamlet Companies in Utah shall attend the training. Duplicative sessions may be held to accommodate staffing needs. The Hamlet

Companies shall be responsible for all costs associated with this training.

- B. During the first year of the decree, the Hamlet Companies shall conduct two training sessions. The first training shall be conducted within ninety (90) days of the entry of this decree. The second training shall be conducted within one hundred eighty (180) days of the first training. Additional training shall be conducted for all Hamlet Companies' employees in Utah facilities subject to this Decree at least once during the second and final year of this Decree.
- C. Defendants shall select a qualified trainer or facilitator and shall submit the trainer's or facilitator's name, resume, training agenda and the date(s) of the proposed training to the Regional Attorney of the Albuquerque Area Office of the Equal Employment Opportunity Commission within thirty (30) days of the entry of this decree. For the second training session in year one and the final training session in year two, the above information shall be submitted to the Regional Attorney at least sixty (60) days prior to the seminar-training session. The Commission shall have thirty days from the date of receipt of the information described above to accept or reject the proposed trainer or facilitator and/or the contents of the seminar. In the event the Commission does not approve defendants' designated trainer or facilitator, the Commission shall designate the trainer or facilitator at a cost not to exceed \$1000.00 per seminar-training session which shall be paid by defendants.
- D. The training shall include a minimum of three hours of instruction. All personnel, designated in Paragraph A, shall both register and attend the training.

The registry of attendance shall be retained by Hamlet Companies at least for the duration of the decree.

- E. The training, at a minimum, shall include the subjects of: what constitutes sex discrimination, including sexual harassment and retaliation; that sex discrimination in the hiring, firing, compensation, assignment or other terms, conditions or privileges of employment and retaliation violates Title VII; how to prevent sex discrimination and retaliation; how to provide a work environment free from sex discrimination, sexual harassment, and retaliation; and to whom and by what means employees may complain if they feel they have been subjected to sex discrimination, sexual harassment or retaliation in the workplace.
- F. Immediately following the training sessions, the Director of Human Resources for the Hamlet Companies or the highest ranking managerial official in the facility shall speak to the employees about: (1) potential discipline that can be taken against supervisors, managers and employees who commit acts of sex discrimination or retaliation or who allow sex discrimination or retaliation to occur in the workplace; (2) the importance of maintaining an environment free of sex discrimination and retaliation; and (3) the employer's policies regarding sex discrimination, sexual harassment, and retaliation. This time shall not be counted toward the three-hour minimum training required in paragraph 14D.
- G. For the duration of this decree, at or around the time of hire, employees hired after the annual training is presented, shall view a video tape of the training and/or a professional training tape which covers the topics set forth in paragraph 14E and

shall be given any written material disseminated at the training.

15. The Commission, at its discretion, may designate Commission representatives to attend and participate in any of the training sessions described above.

REPORTING BY DEFENDANT AND ACCESS BY EEOC

16. The Hamlet Companies shall report in writing and in affidavit form to the Regional Attorney of the Commission's Albuquerque Area Office at 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189, 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 discrimination, sexual harassment and retaliation.
- B. The name, address, position, and telephone number of any employee who during the six months preceding the report has brought allegations of sex discrimination, sex harassment, or retaliation arising from activities in the Hamlet Companies' Utah facility(s) against any of the Hamlet Companies or its personnel, including but not limited to owners, management officials, vendors, agents, or employees. The nature of the complaint, investigatory efforts made and the corrective action taken, if any, shall be specified.
- C. The registries of persons attending each of the seminar-training sessions required in paragraphs 12 and 14 of this decree and a list of current employees on the day of the seminar-training session.

D. An affidavit by the Hamlet Companies or Hamlet Homes' Director of Human Resources stating: (1) the Notice required in paragraph 13 of this decree was posted and the locations where it was posted, and (2) it has complied with paragraphs 9-12 and 14 of this decree.

E. Copies of any video presentations the Hamlet Companies have utilized to comply with the requirements of this decree.

17. The Commission upon reasonable notice, which shall be defined to be at least five business days, shall have the right to enter and inspect the premises of the Hamlet Companies' facility(s) in Utah to insure compliance with this decree and federal anti-discrimination laws.

COSTS AND DURATION


18. Each party shall bear its costs and attorney's fees incurred as a result of this action through the entry of this decree.

19. The duration of this decree shall be two (2) 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, after having given ten (10) days written notice of noncompliance. Should the Court determine that any of the Hamlet Companies 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.

20. This decree shall expire by its own terms at the end of two (2) years after entry, without further action by the parties.

21. The parties agree to entry of this decree subject to final approval by the Court.

ENTERED AND ORDERED this 12th day of July, 2007.



THE HONORABLE DALE A. KIMBALL
UNITED STATES DISTRICT JUDGE

APPROVED AND CONSENTED TO:

RONALD COOPER
General Counsel

James L. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

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Attorneys for Defendants

DISTRIBUTION OF SETTLEMENT PROCEEDS

	<u>Back Pay</u>	<u>Compensatory Damages</u>
Julie Williams Sparks	\$6,456.23	\$32,000.00
Angela Blue	\$0	\$30,000.00
Gretchen Gunn	\$0	\$20,000.00
Debbie Holje	\$0	\$13,750.00
Machelle Johnson	\$0	\$27,500.00
Amanda Moody	\$0	\$13,750.00
Amanda Reed Finn	\$10,730.42	\$20,000.00

EXHIBIT A

NOTICE TO ALL EMPLOYEES OF THE HAMLET COMPANIES

This Notice is posted pursuant to a Consent Decree entered into between the Hamlet Companies and the Equal Employment Opportunity Commission (EEOC).

It is unlawful under federal law (Title VII of the Civil Rights Act of 1964) and state law to discriminate against an employee on the basis of sex in hiring, firing, compensation or other terms, and conditions or privileges of employment, including sexual harassment. It is also unlawful under federal and state law to retaliate against any individual who complains of harassment.

The Hamlet Companies prohibits all forms of sex discrimination, including sexual harassment. Prohibited sexual harassment includes, but is not limited to, the following conduct:

- a. unwelcome touching of a sexual nature;
- b. unwelcome comments, including comments regarding intimate body parts, or clothing and discussion of sexual jokes or sexual behavior;
- c. unwelcome requests for dates, sexual favors and propositions
- d. unwelcome distribution in the workplace of cartoons, pictures or drawings of a sexual nature; and
- e. unwelcome display of pornographic material in the workplace.

The Hamlet Companies, shall not discriminate on the basis of sex 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 who files a grievance alleging discrimination.

If you believe you are being sexually harassed, discriminated against based on sex or retaliated against you should report this to the designated investigative officer at your workplace who may be contacted at _____.

If you believe you have been discriminated against or retaliated against by any of the Hamlet Companies, you have the right to seek assistance from:

- 1) Equal Employment Opportunity Commission Phoenix District Office, 3300 N. Central Avenue, Ste. 690 Phoenix, Arizona 85012, (602) 640-5000, or EEOC Albuquerque Area Office, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102, (505) 248-5202 or 1-800-669-4000.
Or
- 2) Utah Anti-Discrimination Division, 160 East 300 South, 3rd Floor Salt Lake City, UT 84111, (801) 530-7609 or 1-800-222-1238.

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

EXHIBIT B

RELEASE OF TITLE VII CLAIMS

In consideration for \$_____ paid to me by _____, in connection with the resolution of EEOC v. Hamlet Development Corp., Hamlet Homes, Stirling Mortgage Corp., and Diversified Habitats 1, (“the Hamlet Companies”), 2:06-CV-0075 DAK(D.Utah), I waive my right to recover for any claims of sex discrimination, including sexual harassment arising under Title VII of the Civil Rights Act of 1964 that I had against Hamlet Development, Hamlet Homes, Stirling Mortgage or Diversified Habitats prior to the date of this release and that were included in the claims alleged in EEOC’s complaint in EEOC v. Hamlet Development Corp., Hamlet Homes, Stirling Mortgage Corp., and Diversified Habitats 1, (“the Hamlet Companies”), 2:06-CV-0075 DAK (D. Utah).

SIGNED this _____ day of _____, 2007.

Signed Name: _____

Printed Name: _____

Exhibit C