

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 06-CV-00591-LTB-MJW

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

And

BARBARA ARCHER,

Plaintiff Intervenor,

v.

COLORADO BOULEVARD MOTORS, INC. d/b/a MIKE SHAW CHEVROLET, INC.

Defendant.

AMENDED CONSENT DECREE

I. RECITALS

1. This matter was instituted by Plaintiff, Equal Employment Opportunity Commission (“Commission” or “Plaintiff” or “EEOC”), an agency of the United States government, alleging that, Defendant Colorado Boulevard Motors, Inc. d/b/a Mike Shaw Chevrolet, Inc. (“Defendant”) discriminated against Barbara Archer and three other female employees by maintaining a hostile work environment based on gender.

2. The Commission and Defendant, desiring to settle this action by an appropriate Consent Decree (“Decree”), agree to the jurisdiction of this Court over the parties and the subject matter of this action, and agree to the power of this Court to enter a Consent Decree enforceable

against the Parties hereto.

3. This Decree is final and binding upon the parties as to the issues resolved.

4. The parties agree that this Consent Decree fairly resolves the issues alleged in this lawsuit, and constitutes a complete resolution of all of the Commission's claims of unlawful employment practices under Title VII that arise from the charge of discrimination filed by Barbara Archer, Charge No. 320-2004-01360.

5. For the purpose of amicably resolving disputed claims, the Defendant joins with the Commission in requesting this Court to adjudge as follows:

IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

II. JURISDICTION

6. The parties stipulate to the jurisdiction of the Court over the parties and subject matter of this action, and have waived the entry of findings of fact and conclusions of law.

7. The duration of this Decree shall be eighteen months from the date of signing by the Court.

III. ISSUES RESOLVED

8. This Decree resolves all claims for damages arising out of the issues and claims set forth in Civil Action No. 06-CV-00591-LTB-MJW.

9. Defendant and its officers, agents, and employees will not interfere with the relief herein ordered, and shall cooperate in the implementation of this Decree.

IV. RELIEF FOR CLASS MEMBERS

10. In full settlement of all claims asserted by EEOC and the class of aggrieved individuals identified in this case, Defendant agrees to pay a total of \$12,500.00 as set forth on sealed Exhibit A. For the payments designated as damages, Defendant, or its agent, will issue an IRS Form 1099. Defendants shall pay the settlement amount as set forth above in sealed Exhibit A by check or money order no later than ten days from the Court's entry of the Consent Decree. The check or money order shall be made payable to each of the individuals set forth in Exhibit A and mailed to the address provided by the Commission. Within three business days of the issuance of the check or money order, Defendants shall submit a copy of the check or money order and all related correspondence to Mary Jo O'Neill, Regional Attorney, Equal Employment Opportunity Commission, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012.

11. If requested by any of the three class members, Defendant will provide a neutral letter of reference which includes: dates of employment; position; and last rate of pay.

V. EQUITABLE RELIEF

A. Scope

12. The terms of this Decree shall apply only to Defendant's business located at 1080 S. Colorado Boulevard, Denver, CO., 80246.

B. Injunctive Relief

13. During the term of this Consent Decree, Defendant, its officers, agents, and employees, are enjoined from engaging in any employment practice which discriminates on the basis of gender.

14. During the term of this Consent Decree, Defendant, its officers, agents, and

employees, are enjoined from engaging in reprisal or retaliation of any kind against any person because of such person's opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964, as amended, because of such person's filing a charge, testifying or participating in any manner in any investigation, proceeding, hearing or lawsuit under any of these statutes, because such person was identified as a witness or possible witness for the Commission, because such person participated in any manner in this action or in the investigation giving rise to this action, or because such person is designated as an aggrieved individual under this Decree.

C. Anti-discrimination Policy

15. Defendant shall adopt and/or maintain a policy proscribing discrimination based on gender, and proscribing retaliation against any employee who complains about gender discrimination or who files a charge of discrimination alleging gender discrimination. ("Anti-Discrimination Policy"). Defendant shall post and keep posted for the duration of this Decree, in a conspicuous place in each of its facilities located at 1080 S. Colorado Boulevard, Denver, CO., 80246, where notices to employees and applicants for employment are customarily kept or posted, a copy of the Anti-Discrimination Policy. Within fifteen (15) days of entry of this Decree, Defendant shall provide a copy of the Anti-Discrimination Policy to all employees and will provide the policy to newly hired employees within five (5) days of their hire. Within thirty (30) days of entry of this Decree, Defendant shall forward a copy of the Anti-Discrimination Policy to the Commission and a letter indicating that the Anti-Discrimination Policy has been posted and distributed.

D. Training

16. Beginning in calendar year 2007, and annually thereafter, Defendant shall conduct annual training for all its employees on what constitutes employment discrimination. Training will include employee notification of the Defendant's policy and procedures for registering complaints of discrimination. Defendant agrees that said training will also counsel employees on the penalties of engaging in such discriminatory behavior. Defendant agrees that said training will include Title VII's prohibition on retaliation. All training under this Paragraph shall be at Defendant's expense, conducted by an official of its Human Resources Department, or by outside vendors or by video training approved by the EEOC.

17. The training will be conducted as follows:

a. Managerial/Supervising Employees; Human Resources Employees.

Defendant will require all of its employees to attend four hours of training per year regarding workplace discrimination, with emphasis on harassment and retaliation. Harassment training will include discussion of harassment based on race, color, national origin, gender, age, religion, and disability. Additionally, Defendant will require new employees to complete the requisite training within 30 days of being hired.

b. Human Resource Employees:

In addition, at least one employee with Human Resource responsibility for Defendant's 1080 S. Colorado Boulevard, Denver, CO., 80246 facility will receive at least 16 hours of training annually regarding Title VII and other Federal Anti-discrimination laws

18. Defendant agrees that the first such training session for each employee group identified above, will take place within sixty days after entry of this Decree. Defendant agrees

that all personnel shall both register and attend the seminar training sessions. In the annual report required under the Reporting provisions of this Decree, Defendant shall submit copies of the agenda of the training programs, identify the individuals providing the training, and provide the registries of attendance.

19. The Commission, at its discretion, may designate one or more Commission representatives to attend any of the seminar-training sessions described above, and the Commission representative(s) shall have the right to attend and participate in training sessions. Defendant shall provide the Commission with fifteen days notice that a seminar-training session will be conducted.

E. Posting of Notice

20. Within five (5) business days of the entry of this Consent Decree, Defendant shall post in a conspicuous place located at 1080 South Colorado Boulevard, Denver, CO., 80246, where notices to employees and applicants for employment are customarily kept or posted, the Notice attached as Exhibit B to this Decree. The Notice shall remain posted for the duration of this Decree. If the Notice becomes defaced or illegible, Defendant will replace it with a clean copy. Defendant shall certify to the Commission, in writing, within twenty (20) days of entry of this Decree that the Notice has been properly posted and shall provide in its annual report and in its last report at the completion of the 18 month term of this agreement, required under the Reporting provision of this Consent Decree.

F. Record Keeping And Reporting Provisions

21. For the duration of this Consent Decree, Defendant shall maintain all records concerning implementation of this Consent Decree.

22. Defendant shall bear the costs of maintaining records, preparing any report, access or copying of records.

23. Defendant will provide an annual report and an additional report at the end of the eighteen month term of this agreement. The annual report shall be due 30 days following the one year anniversary of the entry of this Decree. The final report shall be due thirty days following the completion of the eighteen month term of this agreement

24. Each report shall provide the following information:

a. Complaints of Gender Discrimination

For purposes of this Paragraph 24, the term “complaint of gender discrimination” will include any written complaint which alleges discrimination based on gender, or alleges conduct which the Defendant recognizes as presenting an allegation of gender discrimination. For example, an employee may complain that she or he was denied promotion because of her or his sex, or that co-workers are telling offensive sexual jokes. These are “complaints of discrimination” even though the employee does not use the word “discrimination”. Each report shall include: the name of each person making a complaint of gender discrimination to Defendant or to any federal, state, or local government agency; a brief summary of each complaint, including the date of the complaint, the name of the individual(s) who allegedly engaged in the discriminatory conduct, the Defendant’s response to the complaint, the name of the person who investigated or responded to the complaint, and what, if any resolution was reached; and copies of all documents memorializing or referring to the complaint, investigation, and/or resolution thereof. However, if the complaining employee does not wish to have his or

her name disclosed to any entity outside of the company, Defendant shall identify the employee anonymously such as “employee A”.

b. Training

For each training program required under Paragraphs 16 through 19, and conducted during the reporting period, Defendant shall submit to EEOC a registry of attendance.

For each training program required under Paragraph 16 through 19, and completed during the reporting period, Defendant will identify the vendor and provide a copy of the program agenda to the EEOC for approval and will provide a certificate of completion to the EEOC within thirty (30) days.

c. Posting of Notice

Defendant shall re-certify to the Commission, that the Notice required to be posted under Paragraph 20 of this Consent Decree has been properly posted, or if removed, was promptly replaced, during the duration of the reporting period.

VI. RETENTION OF JURISDICTION AND FILING OF DECREE

25. This Court shall retain jurisdiction of this case for purposes of compliance with this Decree and entry of such further orders or modifications as may be necessary or appropriate to effectuate equal employment opportunities for employees. The Commission and Defendant shall file a Joint Stipulation for Dismissal with Prejudice (“Joint Stipulation”) of this civil action, with this Consent Decree.

VII. ENFORCEMENT

26. There is no private right of action to enforce Defendant's obligations under the Decree and only the Commission may enforce compliance herewith.

27. Enforcement may be had by the Commission petitioning the Court for enforcement of the terms of this Decree. However, this Consent Decree does not create a precedent for any future actions by EEOC against Defendant.

VIII. EEOC AUTHORITY

28. With respect to matters outside the scope of this Decree, this Decree shall in no way limit the powers of the Commission to seek to eliminate employment practices or acts made unlawful by any of the statutes over which the EEOC has enforcement authority.

IX. COSTS AND ATTORNEY'S FEES

29. Except as specifically set forth herein, each party shall be responsible for and shall pay its own costs and attorney's fees.

X. NOTICE

30. Any notice, report, or communication required under the provisions of this Decree shall be sent by certified mail, postage prepaid, to the appropriate parties as follows:

Regional Attorney
Denver Field Office
Equal Employment Opportunity
Commission
303 E. 17th Avenue, Suite 510
Denver, CO 80203

Colorado Boulevard Motors, Inc.,
d/b/a Mike Shaw Chevrolet - Saab
1080 South Colorado Boulevard
Denver, CO 80246

SO ORDERED this _____ day of _____, 2007.

BY THE COURT:

United States District Judge

APPROVED AS TO FORM AND CONTENT:

s/ Mary Jo O'Neill
Mary Jo O'Neill
Regional Attorney
Phoenix District Office
Telephone: 602.640.5044
Fax: 602.640.5099
Email: mary.oneill@eeoc.gov

s/ Jennifer Randall
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Attorneys for Plaintiff EEOC

s/ Michelle Magruder
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s/ Elwyn Schaefer
Elwyn F. Schaefer
Andrea J. Kershner
Elwyn Schaefer and Associates, P.C.
600 17th St., Suite 2005-S
Denver, CO 80202
Telephone: (303)-825-1961
efschaefer@qwest.net
Attorneys for Defendant

ATTACHMENT B

NOTICE

The following notice is being posted pursuant to the terms of a Consent Decree reached between the parties in EEOC v. Colorado Boulevard Motors, Inc., d/b/a Mike Shaw Chevrolet, Inc.

Management of Mike Shaw Chevrolet-Saab wishes to emphasize the company's fundamental policy of providing equal employment opportunity in all of its operation and in all areas of employment practices, and to ensure that there shall be no discrimination against any employee or applicant for employment on the grounds of race, color, religion, sex, pregnancy, national origin, age or disability. This policy extends to insurance benefits and all other terms, conditions and privileges of employment.

Pursuant to Title VII of the Civil Rights Act of 1964, as amended, it is unlawful for an employer to discriminate based upon the sex of an employee or job applicant. Further, it is unlawful for any employer to retaliate against an employee because he or she has opposed discriminatory employment practices, including sex discrimination, or because he or she has filed a charge of discrimination with any municipal, state or federal equal employment opportunity agency, or because he or she has participated in an investigation of a charge of discrimination.

Mike Shaw Chevrolet-Saab respects the right of its employees and applicants for employment to work in an environment free from discrimination. Accordingly, Mike Shaw Chevrolet-Saab reaffirms its commitment to comply with Title VII, which prohibits discrimination on the basis of race, color, national origin, gender, or religion. It is our policy to prohibit all discrimination in terms of hiring, promotion, compensation, benefits, discharge or discipline.

Any employee who believes that he/she has suffered discrimination on the basis of age, race, color, religion, sex, pregnancy, national origin, or disability, should immediately provide a written complaint per the Mike Shaw Chevrolet-Saab anti-harassment/anti-discrimination policy. In addition, an employee may contact the EEOC directly at 1-800-669-4000. Information on the EEOC can also be obtained at www.eeoc.gov. In compliance with federal law, no official at Mike Shaw Chevrolet-Saab will retaliate against an employee who makes an internal complaint of discrimination or who contacts the EEOC or its state counterpart.

This Notice shall remain posted for the term of eighteen months.

Mike Shaw Chevrolet-Saab

By:_____

_____ Date