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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity
Commission,

Plaintiff,

vs.

Apothecary Shop of Scottsdale, Inc., d/b/a
Apothecary Shops of Arizona; and
Apothecary Shop of Gilbert, Inc.,

Defendants.

NO. CV 06-02324 PHX EHC

CONSENT DECREE

INTRODUCTION

The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed its Complaint against Apothecary Shop of Scottsdale, Inc., d/b/a Apothecary Shops of Arizona, and Apothecary Shop of Gilbert, Inc., ("Defendant" or "Apothecary") to enforce Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (Title VII), the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The EEOC alleged in the Complaint that Apothecary discriminated against Jacinta Hines on the basis of race, African-American, and sex, female, by terminating her from her position of Pharmacy Director.

1 In the interest of resolving this matter, and as a result of having engaged in
2 comprehensive settlement negotiations, the parties have agreed that this action should be
3 resolved by this Decree. The parties do not object to the jurisdiction of the Court over
4 this action.

5 1. This Decree resolves all claims of the Commission against Defendant,
6 including compensatory and punitive damages, interest and injunctive relief.

7 2. The parties agree that the Court has jurisdiction over the parties and the
8 subject matter of this Action pursuant to Title VII of the Civil Rights Act of 1964, as
9 amended, 42 U.S. Code § 2000e et seq.

10 3. This Decree and its terms shall not be construed as an admission of
11 liability whatsoever on the part of Apothecary. Apothecary denies and has always
12 denied that it discriminated against Jacinta Hines on the basis of her sex or her race.
13 This agreement is made solely in compromise and settlement of disputed claims.

14 **INJUNCTION**

15 4. Defendant, and its successors and assigns, and all persons in active concert
16 or participation with it, both at the time that this Decree becomes effective and for the
17 duration of this Decree, are enjoined from discrimination on the basis of race. Nothing
18 in this Injunction shall alter the process or procedures by which charges of
19 discrimination or retaliation against defendant, if any, are processed and investigated.

20 **MONETARY RELIEF**

21 5. Defendant shall pay a settlement amount of \$70,000 to Jacinta Hines. It is
22 agreed that the funds paid pursuant to this Decree shall be designated as compensatory
23 damages.

24 6. Defendant will not condition the receipt of individual relief on the EEOC's
25 or Jacinta Hines' agreement to maintain as confidential the terms of this decree or on an
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1 agreement by Ms. Hines to waive prospectively her statutory right to file a charge with
2 any federal or state anti-discrimination agency.

3 7. Defendant shall pay the Settlement Amount to Jacinta Hines within ten
4 business days of obtaining an executed settlement agreement with Ms. Hines.

5 8. Defendant shall issue United States Internal Revenue Service Form 1099
6 to Ms. Hines for the amounts designated as compensatory damages for the tax year
7 during which payment is made.

8 9. Within five business days of the issuance of the settlement monies,
9 Defendant shall submit a declaration by John Musil confirming that payment of the
10 settlement monies has been made to Mary Jo O'Neill, Regional Attorney, Equal
11 Employment Opportunity Commission, 3300 North Central Avenue, Suite 690, Phoenix,
12 Arizona 85012.

13 **NOTICE**

14 10. Within thirty (30) days of the entry of this Decree, Defendant shall post the
15 Notice attached as Exhibit A in a prominent place frequented by its employees at all of
16 its facilities located in the state of Arizona. The Notice shall remain so posted for the
17 duration of the decree. The Notice shall be the same type, style and size as set forth in
18 Attachment A to this Decree.

19 **OTHER RELIEF**

20 11. Defendant agrees to carry out policies and practices at its facilities in the
21 state of Arizona that help assure a work environment free from race discrimination and
22 to ensure compliance with the record-keeping provision of Title VII, 42 U.S.C. § 2000e-
23 8(c), and 29 C.F.R. § 1602.14 (2000).

1 12. Defendant shall promptly and appropriately investigate all complaints by
2 its employees of race or sex discrimination and maintain all records relating to any such
3 investigation.

4 13. Defendant shall implement policies with respect to discipline and
5 termination in a non-discriminatory manner.

6 14. Any written communication to Defendant's employees that it is an at-will
7 employer shall also indicate that any exercise of this at-will authority will be done
8 consistent with state and federal law, including any prohibitions against discrimination
9 based on race and sex.

10 15. Defendant agrees to retain documents related to the investigation of
11 complaints of race or sex discrimination in an investigatory file that is separate from the
12 complainant's regular personnel file.

13 16. Within ninety (90) days from the entry of this Decree, Defendant agrees to
14 provide training on race or sex discrimination to its officials with responsibility for the
15 hiring, promotion, or discharge of employees who have not received such training within
16 the past 12 months. Between 12 months and 17 months from the entry of the decree,
17 Defendant agrees to provide training on race or sex discrimination to its officials with
18 responsibility for the hiring, promotion, or discharge of employees who have not
19 received such training within the past 12 months.

20 A. Defendant shall obtain the EEOC's approval of the
21 consultants/lecturers selected by Defendant to provide the training described above. At
22 least thirty (30) days prior to the proposed training seminar, Defendant shall submit the
23 name(s), address(es), telephone number(s) and resume(s) of the proposed
24 consultant/lecturer(s), together with the dates of the proposed training seminar and an
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1 outline of the contents of the training, to the Regional Attorney of the Phoenix District
2 Office of the EEOC.

3 B. Defendant shall retain all materials relating to the training,
4 including sign-in sheets and training materials. These materials shall be made available
5 to the Equal Employment Opportunity Commission upon request.

6 17. To the extent necessary, Defendant shall expunge from the personnel files
7 of Ms. Hines (a) all references to the charge of discrimination filed against Defendant
8 that formed the basis of this action; (b) all references to Ms. Hines' participation in this
9 action.

10 18. Upon receipt of requests for references by a prospective employer for Ms.
11 Hines that are made to Defendant's Human Resources Department or to John Musil,
12 Defendant agrees to provide a neutral reference stating only Ms. Hines' dates of
13 employment, job title, and salary.

14 19. Defendant shall retain all materials relating to the termination of any
15 employee for the duration of the decree. This includes all performance evaluations,
16 disciplinary notices, job descriptions.

17 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

18 20. Defendant shall report in writing and in affidavit form to the Regional
19 Attorney of the Commission's Phoenix District Office, beginning six months from the
20 date of the entry of this Decree, and one year thereafter, the following information:
21 Confirmation that (1) the Notice required in paragraph 11 of this Decree was posted, and
22 the locations where it was posted; (2) the policies required in paragraphs 12-15 were
23 distributed to each current and new employee of Defendant, and posted.
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1 21. The Commission, upon reasonable notice and agreement, shall have the
2 right to enter and inspect Defendant's Arizona premises and work sites to ensure
3 compliance with this Decree.

4 **PROCEDURES AND REMEDIES FOR NON-COMPLIANCE**

5 22. In the event that the Commission believes that Defendant has failed to
6 comply with any provision(s) of this Decree, it shall notify Defendant in writing of the
7 non-compliance by fax and by overnight mail to the counsel and the corporate officer
8 who sign this Decree on Defendant's behalf, or to his or her successor, and afford
9 Defendant forty-five days after service of the notice to remedy the non-compliance.

10 23. If Defendant has not remedied the alleged non-compliance in forty-five
11 (45) days after service of notice, the EEOC may petition this Court to enforce the terms
12 of the Decree at any time during its duration.

13 24. In the event the Court finds that Defendant has violated this Decree, as
14 evidenced by a final judgment against Defendant, the Court may order reasonable relief
15 to remedy the non-compliance, including attorneys' fees, daily fines, appropriate
16 injunctive relief, and extension of this Decree for such period as may be necessary to
17 remedy its non-compliance.

18 25. The Parties' intent in entering this Consent Decree is to allow only the
19 EEOC and the Plaintiff Intervenor the right to and/or ability to petition the Court for
20 compliance with and/or enforcement of the terms of this Decree, as set forth in
21 Paragraph 23.

22 **COSTS AND DURATION**

23 26. The EEOC and Defendant shall bear its costs and attorney's fees incurred
24 as a result of this action through the filing of this Decree.

25 27. The duration of this Decree shall be eighteen months from its entry.
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This Court shall retain jurisdiction over this action for the duration of the Decree, during which the Commission may petition this Court for compliance with this Decree. Should the Court determine that Defendant has not complied with this Decree, the Court may order appropriate relief; including extension of this Decree for such period as may be necessary to remedy its non-compliance, an award of attorney's fees and costs, and fines for contempt of court.

28. In the event Defendant is in non-compliance with any provision of this Decree, and the Commission petitions the Court to order Defendant to comply, Defendant shall pay all attorney's fees and costs incurred by the Commission to enforce the Decree, if ordered.

29. Absent extension, this Decree shall expire by its own terms at the end of eighteen months from the date of entry without further action by the Parties.

The Parties agree to entry of this Decree subject to final approval by the Court.

APPROVED this 16th day of April, 2008.



Earl H. Carroll
United States District Judge

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QUARLES & BRADY LLP

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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EXHIBIT A

NOTICE TO ALL EMPLOYEES OF APOTHECARY

This Notice is posted pursuant to a Decree between Apothecary and the Equal Employment Opportunity Commission (EEOC). The Decree is not a result of any finding by a Court or admission by Apothecary that Apothecary violated any laws.

Federal and state laws prohibit discrimination against employees on the basis of race. It is also unlawful to retaliate against any person because the person protested discriminatory practices or contacted the EEOC or the Arizona Civil Rights Division.

Apothecary will not discriminate against any employee on the basis of race, and will not retaliate against any employee. Neither will Apothecary tolerate its employees, vendors, contractors or other third parties discriminating against its employees on the basis of sex.

If you believe you have been discriminated against at Apothecary, you are required, pursuant to the company's policies prohibiting discrimination, to report the discrimination to the Director of Human Resources or to your manager. You also have the right to seek assistance from:

(1) EEOC, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012, (602) 640-5000; or

(2) Arizona Civil Rights Division, (ACRD) of the Attorney General's Office, 1275 W. Washington, Phoenix, Arizona, 85007, (602) 255-5263.

No Retaliation Clause. No action may be taken against you by any supervisory or management official of Apothecary for (1) opposing discriminatory practices made unlawful by federal law, (2) filing a charge or assisting or participating in the filing of a charge of discrimination, or (3) assisting or participating in an investigation or

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proceeding brought under Title VII. Should any such retaliatory actions be taken against you, you should immediately contact the Director of Human Resources of Apothecary and/or the EEOC or ACRD at the address or telephone numbers listed above.

THIS NOTICE MUST REMAIN POSTED UNTIL _____

Dated: _____