

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

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EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

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Plaintiff,

*

BY _____ DEPUTY

v.

Civil Action No.
06-CV-2520 RDB

*

BOUZIANIS, INC.
d/b/a DOUBLE T DINER,

*

Defendant

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* * * * *

CONSENT DECREE

This action was instituted by Plaintiff, Equal Employment Opportunity Commission ("EEOC" or the "Commission"), against Defendant, Bouzianis, Inc. d/b/a Double T Diner ("Defendant"), on September 26, 2006. The Commission's complaint alleges that Charging Party Kelly Martin was subjected to sexual harassment and to a hostile work environment resulting in her constructive discharge, on the basis of sex, female, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1).

The Commission and Defendant desire to resolve this action without the time and expense of continued litigation, and they desire to formulate a plan to be embodied in a Decree which will promote and effectuate the purposes of Title VII.

For the purposes of resolving this action only, Defendant admits that the Court has jurisdiction over this action and that all jurisdictional prerequisites to suit have been satisfied.

This Decree, being entered with the consent of the Commission and Defendant, shall not constitute an adjudication or finding on the merits of this case and shall not be construed as an admission of liability by Defendant or as a waiver by the Commission of any contentions of discrimination.

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and Title VII.

THEREFORE, upon due consideration of the record herein and being fully advised in the premises, it is ORDERED AND DECREED:

1. This Decree resolves all issues and claims relating to the allegations in the Complaint filed by the Commission in this Title VII action which emanated from the Charge of Discrimination No. 12F-2005-00625 filed by Kelly Martin.

2. Defendant, its officers, agents, servants, employees and all persons acting or claiming to act in its behalf and interest shall be enjoined and restrained from engaging in any employment practice which discriminates on the basis of sex in violation of Title VII, including with regard to sexual harassment and constructive discharge.

3. Within five (5) business days of the Court's approval of this Decree, Defendant will pay to Kelly Martin monetary damages in the total

amount of Thirty-Five Thousand Dollars (\$35,000.00) in full settlement of the claims on behalf of the case, consisting of the back wages in the amount of Three Thousand Dollars (\$3,000.00), less amounts to be withheld by Defendant for applicable federal and state taxes as required by law, and Thirty-Two Thousand Dollars (\$32,000.00) in compensatory damages. Defendant will issue a W2 form for the back wage amount listed above. Defendant shall take no withholding from the compensatory monetary amount listed above and will issue a Form 1099 to Kelly Martin reflecting this payment. Defendant agrees that the check shall be forwarded to Kelly Martin by overnight mail at an address to be supplied by the Commission. Within five (5) days of this payment, Defendant shall send to the Commission's attorney-of-record a copy of the checks along with a copy of the overnight delivery receipt.

4. Within five (5) days of the Court's approval of this Decree, Defendant will post in all places where notices to employees are customarily posted at its facility, the Notice attached hereto as Exhibit "A" and made a part hereof. Said Notice attached hereto as Exhibit "A" shall be posted and maintained for a period of at least three (3) years from the date of posting and shall be signed by a responsible official of Defendant with the date of actual posting shown thereon. Should the Notice become defaced, marred, or otherwise made unreadable, Defendant will ensure that new readable copies of the Notice are posted in the same manner as heretofore specified. Within ten (10) days of such posting, Defendant shall forward to the Commissioner's attorney-of-record at the Baltimore Office a copy of the signed Notice attached hereto as Exhibit

“A” and written certification that the Notice referenced herein has been posted and a statement of the location(s) and date of posting.

5. Defendant agrees that within twenty-one (21) days of the Court's approval of this Decree, it shall institute a revised sexual harassment policy. The policy shall include at a minimum, a clear explanation of prohibited conduct, designation of a contact person to whom the prohibited conduct should be reported, with an effective method of contact, a complaint procedure that provides accessible avenues of complaint, assurance that the employer will take all reasonable measures to protect confidentiality, conduct an impartial investigation, refrain from retaliating against any person who participates in such investigation, and take prompt and appropriate corrective action. The revised policy is to be reviewed by the Commission. Within ten (10) days of the Court's approval of the Decree, Defendants shall forward to the Commission its proposed revised sexual harassment policy for review and comment. Thereafter, within twenty-one (21) days of the Court's approval of this Decree, Defendant will post the (revised) sexual harassment policy in all places where notices to employees are customarily posted at its facility. The revised sexual harassment policy shall be posted and shall be maintained for a period of at least three (3) years from the date of posting. Within ten (10) days of the posting of the policy, Defendant shall forward to the Commissioner's attorney-of-record at the Baltimore Office a written certification that the policy referenced herein has been posted and a statement of the location(s) and date of posting.

6. Defendant agrees that within thirty (30) days of the Court's approval of this Decree, it shall provide mandatory training to its employees, including managers and supervisors, regarding federal EEO laws prohibiting discrimination in employment enforced by the Commission, particularly those concerning sex discrimination and harassment. Defendant's revised sexual harassment policy shall be distributed during such training. The trainer's credentials and an outline of program materials shall be forwarded to the EEOC's attorney-of-record ten (10) days prior to such training being conducted and a representative of the Commission shall be invited to attend such training. Within fifteen (15) days of the completion of this training, Defendant shall forward to the Commissioner's attorney-of-record at the Baltimore Office written certification that the training has been completed together with a list of employees and managerial staff who have been trained, and the dates of training. Defendant also agrees to provide to each newly-hired employee an orientation to its equal employment opportunity policies, including the sexual harassment policy, within a reasonable time of hire.

7. Defendant will not discriminate against any individual because such individual has opposed any practice that is made unlawful under Title VII or because of the filing of a charge, the giving of testimony, assistance or participation in any investigation, proceeding, or hearing, under Title VII.

8. The Commission reserves the right to monitor compliance with the provisions of this Decree. As part of such review, the EEOC, upon notice to Defendant, may require written reports concerning compliance, inspect

Defendant's premises, interview witnesses, and examine and copy documents at reasonable times to be mutually agreed to by the parties.

9. If any party to this Decree believes that any other party has breached a material provision of this Decree, it shall so notify the party(s), in writing, of the alleged breach. Upon receipt of written notice, a party(s) shall have fifteen (15) days to either correct the alleged breach, and so inform the other party(s), or deny the alleged breach, in writing: a) If the parties remain in dispute, they shall attempt in good faith to resolve their dispute; b) If the parties cannot in good faith resolve their dispute, the party alleging a breach may file with the Court a motion to correct and remedy the breach; c) Each party shall bear its own costs, expenses and attorney's fees incurred in connection with such action; and d) Jurisdiction and venue to resolve any dispute arising under this Decree resides in the United States District Court for the District of Maryland.

10. This Decree shall remain in full force and effect for a period of three (3) years from the date of approval and entry of this Decree by the Court.

11. The Court shall retain jurisdiction of this action to ensure compliance with this Decree. In all other respects, upon approval and entry by the Court of this Decree, the Commission's action against Defendant is dismissed with prejudice and the Clerk of the Court is directed to remove this action from the Court's calendar.

12. The Commission and Defendant shall bear their own costs, expenses and attorneys' fees incurred in connection with this action.

13. The undersigned counsel of record, on behalf of their respective clients, hereby consent to the entry of the foregoing Consent Decree.

AGREED:

FOR DEFENDANT:

**BOUZIANIS, IN. d/b/a
DOUBLE T DINER**

_____/s/_____
RONALD W. TAYLOR
Venable LLP
2 Hopkins Plaza, Suite 1800
Baltimore, MD 21201
(41) 244-7400

FOR PLAINTIFF:

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

RONALD S. COOPER
General Counsel

JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

_____/s/_____
JACQUELINE H. MCNAIR
Regional Attorney
EEOC-Philadelphia District Office
(including Baltimore Field Office)

_____/s/_____
DEBRA M. LAWRENCE
Supervisory Trial Attorney
EEOC-Baltimore Field Office

/s/
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EQUAL EMPLOYMENT
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Baltimore, MD 21201
(410) 209-2728

SO ORDERED.

Signed and entered this 4th day of OCTOBER, 2007.

R. H. D. Bennett
UNITED STATES DISTRICT COURT JUDGE