

SETTLEMENT AGREEMENT

In the Matter of:

**Commissioner's Charge No. 340A11437
Equal Employment Opportunity Commission**

**Vice Chair Paul M. Igasaki
Charging party**

and

**Palm Management Corp.
Respondent**

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SETTLEMENT AGREEMENT

1. INTRODUCTION

This Settlement Agreement fully and completely resolves Commissioner's Charge No. 340A11437 ("the Charge"), filed on January 17, 2001, by then Vice Chair Paul M. Igasaki of the Equal Employment Opportunity Commission ("EEOC") against the Palm Management Corp. (the "Palm"), together referred to as "the Parties," which alleged that the Palm engaged in unlawful employment practices violative of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq. ("Title VII") in the form of discrimination in recruitment and hiring of service workers at its restaurant locations nationwide on the basis of sex (female), since at least as early as January 1, 1998.

As a result of the Parties having engaged in settlement negotiations, the Parties agree that this action should be finally resolved by entry of this Settlement Agreement. This Settlement Agreement was entered into by the Parties as an amicable way of resolving all outstanding differences that may have existed as a result of the matters alleged in the Charge. This Settlement Agreement is intended to and does fully resolve any and all claims arising out of the Charge through the effective date of this Agreement.

2. PURPOSE AND SCOPE OF AGREEMENT

This Settlement Agreement fully and completely resolves all issues arising out of the Charge through the Effective Date of this Agreement. The EEOC will take no further action with respect to, and will not initiate any action pertaining to, the facts and events which arise out of the Charge, for the time period from January 1, 1998, through the Effective Date.

Nothing in this Settlement Agreement shall constitute or be construed to be an admission by any party of the claims or defenses of the other, nor shall it be construed to limit or reduce the Palm's obligation to comply fully with Title VII or any other federal employment statute.

This Settlement Agreement in no way affects the EEOC's right to bring, process, investigate or litigate charges against the Palm other than the Charge in accordance with standard EEOC procedures, except that, during the term of this Settlement Agreement, the EEOC agrees that it will resolve disputes arising from the Settlement Agreement in accordance with the provisions of the Settlement Agreement, and will not initiate or pursue a Commissioner's Charge or a Directed Charge against the Palm on the basis of any of the specific allegations contained in the Charge.

3. AGREEMENT NOT TO DISCRIMINATE

In all matters arising from or relating to employment, the Palm and its officers, agents, employees, successors and assigns, and all of those in active concert or participation with them, or any of them, shall not engage in any employment practice that unlawfully discriminates against an applicant or employee based on sex pursuant to the provisions of Title VII. Prohibited discrimination on the basis of sex includes, but is not limited to:

- A. Refusing to hire a qualified female because of her sex;
- B. Maintaining any practice or policy that violates Title VII by depriving or tending to deprive any female of employment opportunities because of her sex;
- C. Subjecting females to different terms and conditions of employment than males based on sex; and
- D. Maintaining a hostile work environment wherein women are subjected to sexual harassment.

4. AGREEMENT NOT TO RETALIATE

The Palm, its officers, agents, employees, successors, assigns, and all those in active concert or participation with them, or any of them, shall not engage in reprisal or retaliation of any kind against any person because such person:

- A. Opposed any practice made unlawful under Title VII on the basis of sex;
- B. Filed a charge of discrimination with the EEOC or a state agency or testified or participated in any manner in any investigation, proceeding or hearing alleging a violation of Title VII on the basis of sex;
- C. Requested and/or received relief in accordance with this Settlement Agreement;
- D. Participated in any manner in this Charge or its investigation; or
- E. Asserted any rights under this Settlement Agreement.

5. COURT JURISDICTION

The Parties hereby consent to the jurisdiction of the United States District Court for the Central District of California to enforce the terms of this Settlement Agreement or to resolve disputes between the Parties as to interpretation of or compliance with the Settlement Agreement.

6. TERM OF AGREEMENT

This Settlement Agreement shall become effective on the date the last signature is affixed to this Settlement Agreement (the "Effective Date"). This Settlement Agreement shall expire three years after the Effective Date or 30 days after the final distribution of the Class Fund (defined below), whichever is later, except that the Palm shall provide the final report specified herein to the EEOC at the end of the three-year term and the EEOC shall have until 30 days thereafter to review it and address with the Palm any issues arising from the report before the Palm shall be released of its duties under this Settlement Agreement.

7. CLAIMS ADMINISTRATOR

Within seven days after the Effective Date, the Palm shall appoint a specific professional individual or organization, approved by the EEOC, to oversee the implementation and fulfillment of this Settlement Agreement ("Claims Administrator"). If any Claims Administrator initially appointed by the Palm thereafter declines to serve or to carry out its duties under this Settlement Agreement, the Palm shall have ten business days to notify the EEOC in writing of any proposed replacement Claims Administrator, and the EEOC shall have ten business days thereafter to notify the Palm in writing of its approval or disapproval of the proposed Claims Administrator. Approval by the EEOC of any proposed Claims Administrator shall not be unreasonably withheld.

A. Duties of Claims Administrator

The Claims Administrator shall have the responsibility of carrying out the provisions in this Settlement Agreement contained in the section entitled "Class Monetary Relief" herein, including:

- A. Providing Notice to potential Claimants;
- B. Mailing and processing Claim Forms;
- C. Screening Claim Forms to determine which Claimants qualify as members of the Eligible Class;
- D. Calculating and distributing the Class Fund to members of the Actual Class;
- E. Maintaining the Master List; and
- F. Providing periodic reports and accountings of the Claims Administrator's activities.

B. Accessibility of Claims Administrator

The Claims Administrator shall provide a toll-free telephone number, mailing address and electronic mail address so that potential Claimants can obtain Claim Packets or contact the Claims Administrator with questions about the claims process.

8. CLASS MONETARY RELIEF**A. Establishment and Allocation of Class Fund**

The Palm agrees to pay \$500,000.00 in full settlement of the Charge (the "Class Fund"). The Palm shall provide to the Claims Administrator the funds as needed at the time of distribution of the Class Fund to members of the Actual Class in accordance with the provisions of this Settlement Agreement.

B. Class Identification and Notice**(1) Lists of Potential Claimants and Hires**

Within ten business days after the Effective Date, the Palm shall provide to the Claims Administrator and the EEOC, as far as known, a complete list of names, Social Security numbers, telephone numbers, dates of application and last known addresses of all female applicants to all Palm Restaurant locations during the Operative Period, January 1, 1999, to December 31, 2000. At the same time, the Palm shall provide to the Claims Administrator and the EEOC a separate list of the names, last known addresses, dates of birth, Social Security numbers and dates of hire of all females hired between January 1, 1999, and December 31, 2001.

Within ten business days after the Effective Date, the EEOC shall provide directly to the Claims Administrator any information or updates concerning potential Claimants (defined below in the section entitled "Criteria for Class Membership") it has ascertained during its investigation.

The lists required by this provision shall be provided to the Claims Administrator in hard copy and as electronic databases.

(2) Establishment and Maintenance of Master List

Upon receipt of the lists from the Palm and the EEOC, the Claims Administrator shall promptly compile the information from the list of female applicants provided by the Palm and the supplemental list of potential Claimants provided by the EEOC into a master list (the "Master List"), organized alphabetically by potential Claimants' last names, and eliminate any duplicate addresses. The list of females hired in 1999-2001 shall be maintained separately. The Master

List shall be maintained electronically in database form. Throughout the term of this Settlement Agreement and until the Class Fund has been distributed, the Claims Administrator shall promptly update the Master List with any new or additional information it learns pertaining to potential Claimants or members of the Eligible Class or Actual Class, including names, addresses, telephone numbers, e-mail addresses, dates of birth, and Social Security numbers.

(3) List of Names and Locations of Palm Restaurants

Within ten business days after the Effective Date, the Palm shall mail to the Claims Administrator and the EEOC a list of the names and locations of all Palm Restaurants in existence or for which Service Worker positions (defined below in the section entitled "Criteria for Class Membership") were made available during the Operative Period.

(4) Criteria for Class Membership

Each female who submits a Claim Form and/or Release of Claims to the Claims Administrator pursuant to the terms of this Settlement Agreement shall be referred to as a "Claimant."

Only those females who meet *all* of the following criteria are members of the Eligible Class:

- (a) Applied to any Palm Restaurant for a Service Worker position at any time during the Operative Period;
- (b) Was Qualified for the Service Worker position applied for;
- (c) Was not offered the Service Worker position applied for;
- (d) Was not hired by a Palm Restaurant within one year after the applying for the position; and
- (e) Met all legal requirements to work at the Palm at the time of application, or within one year from the date of applying for employment with the Palm.

"Service Worker" as used in this agreement shall mean an employee whose primary objective is meeting restaurant customers' dining needs. Service Worker includes, but is not limited to, Server, Server Assistant, Bartender, Busperson, all cook positions (except Chef and Sous-Chef), Dishwasher, Host/Hostess, Pantry, and Porter. "Qualified" as used in this Settlement Agreement shall mean that, as of the time of application to a Palm Restaurant for a Service Worker position during the Operative Period, the applicant was eligible to work in the position applied for in the state where the application was made, including meeting all legal requirements

for the position, including but not limited to, minimum age and documentation requirements including having any required permits.

Members of the Actual Class shall be all Claimants who meet the criteria for being members of the Eligible Class and who submit timely, complete Claim Forms and Releases of Claims.

For purposes of ultimate distribution of the Class Fund, each member of the Actual Class shall receive an equal distribution of the Class Fund. The amount distributed to each member of the Actual Class will not depend upon whether she applied for a Tipped Position or a Non-Tipped Position.

(5) Notice by Mail

Within thirty days of receipt of the lists of applicants and potential Claimants from the Parties as specified above, the Claims Administrator shall mail a packet consisting of one copy each of the Notice to Class (attached hereto as Appendix A), the Claim Form (attached hereto as Appendix B) and a Release of Claims (attached hereto as Appendix C) (collectively, the "Claim Packet") to each person on the Master List by First Class or Bulk Mail. The Claims Administrator shall ensure, before preparing the Claim Packets, that its name, toll-free telephone number, mailing address, facsimile number and electronic mail address are specified on the Notice to Class and that its name and mailing address are specified on the Claim Form where indicated.

(a) Returned Mail

For all Claim Packets from initial or subsequent mailings returned as undeliverable showing expired forwarding addresses, to which the Claims Administrator has not previously mailed a Claim Packet to the named recipient, the Claims Administrator shall, within seven days of receipt, mail a Claim Packet to the intended recipient at such forwarding address by First Class or Bulk Mail.

For all Claim Packets returned as undeliverable that do not show forwarding addresses, the Claims Administrator shall, within thirty days of receipt thereof, attempt to locate the intended recipient through the use of a locating service or database. Using the information obtained from the locating service or database, the Claims Administrator shall make a second attempt to mail a Claim Packet to the intended recipient by First Class or Bulk Mail. If the locating service or database lists several addresses for the intended recipient and the Claims Administrator cannot ascertain which is the most current, the Claims Administrator shall mail the Claim Packet to each address.

The Claims Administrator shall promptly update the Master List with any new addresses ascertained through either the locating service or database, or notice of expired forwarding addresses.

(b) Mailing Log

For each calendar month during the term of this Settlement Agreement, the Claims Administrator shall keep a running log of all mailings to potential Claimants and of attempts to locate intended recipients as specified herein, including dates, names of recipients, actions taken, returned undeliverable Claim Packets, and information developed from forwarding addresses.

(c) Exhaustion of Efforts

Unless any Claim Packets are returned showing a forwarding address, the Claims Administrator shall have no further obligation to attempt to locate the intended recipient other than through the locator service or database as specified in subparagraph (a) above. The Claims Administrator shall have no further obligation to attempt to locate or mail a Claim Packet to any intended recipient after the Class Closing Date, except as otherwise specified herein. The Class Closing Date shall be 120 days after the date of last publication or last mailing of any Notice of Claim to any potential Claimants, including any repeat mailing after any notice has been returned as undeliverable and the Claims Administrator has made an attempt to trace the potential Claimant or mail to an expired forwarding address as specified herein.

(6) Notice by Publication

(a) Publication in Major Metropolitan Newspapers

Within thirty days after receipt of the Palm's list of names and locations of its Palm Restaurants, the Claims Administrator shall begin publication of the Notice to Class (Appendix F) in the Public Notice sections of:

- (1) The most widely circulated major metropolitan newspaper (e.g., the *Los Angeles Times* for any Palm Restaurants in the Los Angeles Area and the *New York Times* for any Palm Restaurants in the New York area) within 50 miles of each location in which there was a Palm Restaurant during the Operative Period, whether or not the Palm Restaurant is presently owned or operated by the Palm; and
- (2) The most widely circulated Spanish-language newspaper, if available, within 50 miles of each location in which there was a Palm Restaurant during the Operative Period, whether or not the Palm Restaurant is presently owned or operated by the Palm.

The publications of notice shall take place in the Sunday edition of each applicable newspaper for four successive weeks. If no Sunday edition is available, the publication shall take place once weekly for four successive weeks. All such publications will be at the Palm's sole expense.

(b) Publication on the Palm's Web Site

From the Effective Date through the Class Closing Date, the Palm shall continuously provide a link from the employment section of its web site to copies of the Notice, Claim Form, and Release and shall permit downloading and printing of those documents. The link shall be entitled "Notice and Claim Forms Pertaining to EEOC Charge." The Palm shall provide visitors to the web site the option of viewing the documents as HTML files or as PDF files. The Palm shall further use a counter to keep track of how many hits each document receives per month through the Class Closing Date.

(c) Mailing of Claim Packet to Those Who Respond to Publication

Within five business days of inquiry, the Claims Administrator shall mail, via First Class or Bulk Mail, a Claim Packet to each person who responds to a publication, inquires about the settlement, or specifically requests a Claim Packet.

(d) Proof of Publication and Log of Responses to Publication

The Claims Administrator shall maintain proof of its newspaper publications by retaining a copy of either the clipping or the receipt from each publication by newspaper, showing the date published and the name of the publication. The Claims Administrator shall maintain proof of its web site publication by printing at the beginning of each calendar month the HTML displays of the link, the Notice to Class, the Claim Form, and Release of Claims, and by printing a log of the hits to each document. The Claims Administrator shall also maintain a log of each response, inquiry or request, whether made by telephone, e-mail, or regular mail, setting forth the date; the nature of the response, inquiry or request, including the name and contact information for the person contacting the Claims Administrator; and the action taken by the Claims Administrator on the response, inquiry or request.

(e) Exhaustion of Efforts

The Claims Administrator shall have no further obligation to respond to inquiries or mail a Claim Packet to any person after the Class Closing Date, except that the Claims Administrator shall be obligated to update the Master List with contact information provided by a Claimant or potential Claimant at any time before distribution of the Class Fund, and the Claims Administrator shall be obligated to follow up with incomplete claims submissions as provided in the section entitled "Determination of Actual Class."

C. Determination of Actual Class

(1) Initial Screening of Claim Forms

Upon receipt of completed Claim Forms and/or Releases of Claims from Claimants, the Claims Administrator shall first determine whether they have been submitted in a timely manner. A submission from a Claimant shall be timely if it is postmarked on or before the Class Closing Date and if it contains either a Claim Form, a Release of Claims, or both. Any identification or contact information provided on the Claim Form (e.g., name, address, telephone number, Social Security number, and e-mail address) that is not already on the Master List shall be added to the Master List.

The Claims Administrator shall then review the timely submitted forms to determine whether they are complete. Both the Claim Form and a signed and dated Release of Claims must be received for a member of the Eligible Class to become a member of the Actual Class. The Claim Form must be signed under penalty of perjury and notarized to be considered valid. If one or the other document is missing, or if information is missing from either document, the Claims Administrator shall, within five business days, notify the Claimant in writing or by telephone of the deficiency and inform the Claimant of her duty to cure the deficiencies before she may become a member of the Actual Class. The Claimant shall have until the later of the Class Closing Date or 30 days after notice of the deficiency to provide the necessary corrections of the deficiencies to enable the Claims Administrator to make a determination whether the Claimant is a member of the Actual Class. A Claimant's submission will be deemed timely if it is complete by the later of the Class Closing Date or 30 days after notice of deficiency.

(2) Determination of Membership in the Eligible Class and Actual Class

Once the Claims Administrator has received the Claim Form and Release of Claims from a Claimant and has determined the submission to be timely and complete, the Claims Administrator shall next review the Claim Form and determine whether the Claimant meets the criteria for membership in the Eligible Class based on what is stated on the form itself, namely, that she:

- (a) Applied to any Palm Restaurant for a Service Worker position at any time during the Operative Period;
- (b) Was Qualified for the Service Worker position applied for;
- (c) Was not offered the Service Worker position applied for; and
- (d) Was not hired by a Palm Restaurant within one year after the application for the position.

- (e) Met all legal requirements to work at the Palm at the time of application, or within one year from the date of applying for employment with the Palm.

The absence of supporting documentation will not preclude a Claimant from being a member of the Eligible Class, as long as the Claim Form is signed under penalty of perjury and notarized. For each Claimant who appears based on her Claim Form to meet the criteria for membership in the Eligible Class, the Claims Administrator shall check the list of hires provided by the Palm to see if her name appears there. If the Claimant's name appears on the list, the Claims Administrator shall determine whether it is the same person by comparing addresses, Social Security numbers, and/or dates of birth. If it is the same person, the Claims Administrator shall next determine whether the Claimant was hired within one year after the stated application date. If so, the Claimant shall not be a member of the Eligible Class. If not, the Claimant shall be a member of the Actual Class.

(3) Log of Materials Received

The Claims Administrator shall maintain a log of Claim Forms and Releases of Claims received, setting forth the dates, the items received, the identity and contact information of the Claimants, any action taken concerning deficiencies, and the date and nature of each Claimant's response to the deficiencies.

(4) EEOC as Final Arbiter

Any questions the Claims Administrator has concerning a Claimant's eligibility for class participation, entitlement, or distribution amount shall be submitted to the EEOC. The EEOC shall be the sole and final arbiter of any questions about whether a Claimant is a member of the Actual Class, entitled to receive a distribution from the Class Fund, or how much the Claimant is eligible to receive from the Class Fund. The EEOC's decision is not appealable.

(5) Reorganization of Master List

Once the Class Closing Date has passed, the deadline has passed for Claimants to correct deficiencies, and the Claims Administrator has determined the member of the Actual Class, the Claims Administrator shall divide the persons on the Master List into subcategories consisting of: (1) those who did not reply to the notice by mail; (2) potential Claimants with undeliverable addresses; (3) Claimants who did not timely cure deficiencies; (4) unsuccessful Claimants; and (5) members of the Actual Class. The Claims Administrator shall provide the Master List so organized in electronic database and hard copy formats to the Parties no later than 90 days after the Class Closing Date.

(6) Notice to Unsuccessful Claimants

The Claims Administrator shall mail written notice within 14 days thereafter to those Claimants who did not qualify for the Actual Class. The notice shall be in the form of the document attached hereto as Appendix B. Before mailing, the Claims Administrator shall insert the name and address of the non-qualifying Claimant and check the applicable boxes indicating the reasons why the Claimant did not qualify for the Actual Class. The Claims Administrator shall compile and maintain a log of each such mailing, reflecting the name and the address of the recipient and the reasons for the Claimant's non-qualification.

D. Distribution of Class Fund to Actual Class

Within thirty days after providing the Master List to the Parties, the Claims Administrator shall allocate the Class Fund equally, as backpay, among all members of the Actual Class.

The Palm shall be responsible for any required employer contributions, including FICA and FUTA contributions. These shall *not* be deducted from the Class Fund, but shall be paid by the Palm in addition to the Class Fund. The Claims Administrator shall be responsible for ensuring that applicable taxes are withheld from the backpay amounts distributed to the members of the Actual Class, that W-2 and 1099 forms are issued as required, and that it complies with any other reporting obligations it may have under federal, state and local tax laws.

Within fourteen days after the last check has cleared, the Claims Administrator shall issue an accounting, along with copies of all canceled checks, to both Parties. The accounting shall detail the dates and amounts of distributions, the identities of the recipients of distributions, and how the amounts were calculated for each recipient.

9. INJUNCTIVE RELIEF**A. Centralization of Human Resources Functions and Workforce Monitoring**

During the term of this Settlement Agreement, the Palm shall continue to maintain centralized control of its Human Resources functions and shall continue to maintain its centralized tracking database to monitor its employment practices on the basis of applicant flow and hire data and to perform its workforce analyses by EEO-1 category. The Palm shall continue to generate its monthly workforce analyses for hourly employees by gender, showing job openings, number of female and male applicants, number of female and male applicants hired, number of female and male applicants not hired, number of terminated female and male employees and the current gender makeup of the workforce. Electronic and hard copy versions of these analyses shall be provided to the EEOC on a semi-annual basis throughout the term of this Settlement Agreement.

B. EEO Training

The Palm shall provide at least three hours of EEO training to each management employee in addition to the orientation training, at least once a year thereafter throughout the term of this Settlement Agreement. Such training shall be provided by an instructor who has specific education and training in human resources and shall include an overview of the federal employment laws concerning discrimination on the basis of sex and sexual harassment; an overview of the Palm's policy against discrimination on the basis of sex and sexual harassment; instruction on effectively recruiting a diverse workforce; instruction on proper interview techniques and inquiries; instruction on hiring procedures and how to avoid discrimination in recruiting and hiring; instruction on how to deal with requests for accommodation during the interview process; instruction on how to handle complaints of discrimination or sexual harassment and how to recognize and avoid retaliation.

The Palm shall provide at least two hours of EEO training to each non-management employee within ninety (90) days after initial hire as part of the orientation training, and at least once a year thereafter. Such training shall be provided by an instructor who has specific education and training in human resources and shall include an overview of the federal employment laws concerning discrimination on the basis of sex and sexual harassment; instruction on how to recognize sex discrimination and sexual harassment; instruction on how to report suspected sex discrimination or sexual harassment to the Palm; information about prohibited retaliation; and information about the EEOC's mission and functions and how to contact the EEOC.

In addition, the Palm shall provide EEO training to all management and non-management employees within ninety (90) days after initial hire throughout the term of this Settlement Agreement. Such training shall include an overview of such topics as employment diversity, sexual harassment and discrimination as well as an overview of the Palm's policies with respect to same.

Throughout the term of this Settlement Agreement, the Palm shall keep logs of the names, position titles and dates and times of attendance for all training attendees. The Palm shall mail or transmit electronically to the EEOC copies of the logs on a semi-annual basis beginning six months from the Effective Date. If no trainings are performed in a semi-annual period, the Palm shall so notify the EEOC. The Palm shall also notify the EEOC of the dates, times, and locations of each training session in writing at least ten business days in advance of the training, and shall permit representatives of the EEOC to attend if the EEOC so desires.

C. Recruitment and Hiring

(1) Recruitment

The Palm recognizes that an open application system, where all interested individuals are given an equal opportunity to apply and be considered for employment, is vital to a nondiscriminatory work environment. In keeping with this principle, the Palm shall make good-faith efforts to encourage females to apply for employment. The Palm agrees, at a minimum, to:

- (a) Use recruitment sources, such as women's magazines or web sites targeting women, that will increase the Palm's exposure to qualified female applicants.
- (b) To the extent such is consistent with business and budgetary considerations, advertise all vacancies in the most widely circulated major metropolitan newspaper and the most widely circulated Spanish-language newspaper, if available, within 50 miles of the location of the Palm Restaurant that has a vacancy, with each advertisement to include the notation, "Equal Opportunity Employer."
- (c) Cease and desist the use of employee referrals as the sole recruitment source for any position vacancy.

(2) Position Descriptions

The Palm shall prepare and maintain written position descriptions for all Service Worker positions. The job descriptions shall be standardized for use by all Palm Restaurants, shall be gender-neutral, and shall include a description of the job qualifications (if any) and duties.

(3) Hiring

The Palm will make a good-faith effort to continue to hire qualified females into Service Worker positions. This shall in no way be interpreted to mean that the Palm shall use a quota system. In selecting Service Worker employees, the Palm agrees to:

- (a) Use objective, job-related, merit-based criteria in making employment selection decisions.
- (b) Ensure that any application forms used by the Palm omit questions concerning the names or existence of friends or relatives currently employed by the Palm.
- (c) Provide a list of current job vacancies to each applicant for employment, which include a position description and the required duties for the position.

10. OPT-OUT AND RIGHT TO SUE

Potential Claimants may seek to opt out of the Actual Class and seek a right-to-sue letter instead of submitting a Claim Form and Release of Claims. However, such an election will preclude a potential Claimant from collecting a distribution. In order to opt out of the class and receive a right-to-sue letter, the potential Claimant must submit a request, in writing, to the EEOC within 60 days after receipt of the Claim Packet. The EEOC shall determine whether or not to issue to the potential Claimant a 90-day Right-to-Sue Letter (Appendix D) within five business days of receipt of the request.

11. RECORDKEEPING AND REPORTING

A. Periodic Reporting During Term of this Agreement

(1) Monthly

On the first business day of each calendar month throughout the term of this Settlement Agreement, the Claims Administrator shall transmit to the EEOC by mail, fax or electronic mail a copy of each log for the prior calendar month that it is required to maintain pursuant to this Settlement Agreement, along with proof of any publication (as described in the section entitled "Notice by Publication" herein) that has taken place during the prior calendar month.

(2) Quarterly

On the first business day of each calendar quarter, the Claims Administrator shall transmit to the EEOC by mail, fax or electronic mail:

- (a) All workforce analyses by gender it has generated during the prior calendar quarter.

B. Final Report and Accounting

In addition to the recordkeeping and reporting provisions specified herein, the Palm shall continue to observe its duties under the applicable laws to retain employment applications for hires and nonhires and to report EEO-1 data to the EEOC. At the end of three years after the Effective Date, the Palm shall provide a final report to the EEOC detailing all of the activities it undertook to carry out this Settlement Agreement during the pendency of its term, including a listing by date, location and activity of all recruitment activities; a listing by date, name of publication or location, and content of all recruitment and vacancy advertising for Service

Worker positions at all Palm Restaurants; an account of all trainings given by date, location, names of trainees and type of training; and a complete listing of its workforce analysis over the entire period, showing by year the distribution of employees by gender and position; and showing by year and by gender all job openings, the number of applicants for each opening, the number of applicants hired, the number of applicants not hired, and the number of terminated employees.

12. PALM RESPONSIBILITY FOR COSTS AND FEES OF ADMINISTRATION

The Palm shall be solely responsible for the salary of, and all costs and fees incurred by the Claims Administrator in carrying out its duties under this Settlement Agreement, as well as all costs and fees incurred in carrying out the terms of the injunctive relief provided for in this Settlement Agreement. Such costs and fees shall be in addition to money used to create the Class Fund and shall not be deducted from it.

13. CONFIDENTIALITY

The Parties agree that other than specifically required Notice by Publication as described herein, the existence and terms of this Settlement Agreement shall be kept strictly confidential. The Parties may, however, make appropriate disclosures to their respective attorneys, tax advisors, accountants, and consultants, or to such other persons or entities to which disclosure is legally required. Neither party shall issue any press release or other public statement in connection with this Settlement Agreement without mutual written agreement of the parties.

This section shall survive the termination and/or expiration of this Settlement Agreement.

14. MODIFICATION AND SEVERABILITY

This Settlement Agreement and its Appendices constitute the complete understanding of the parties with respect to the matters contained herein. No waiver, modification or amendment of any provision of this Settlement Agreement will be effective unless made in writing and signed by an authorized representative of each of the Parties.

If one or more provisions of this Settlement Agreement are rendered unlawful or unenforceable, the Parties shall make good faith efforts to agree upon appropriate amendments to this Settlement Agreement in order to effectuate its purpose. In any event, the remaining provisions will remain in full force and effect unless the purpose of this Settlement Agreement cannot be achieved or if the deletion works a hardship on one of the Parties and is otherwise unfair.

By mutual written agreement of the parties, this Settlement Agreement may be amended or modified in the interests of justice and fairness in order to effectuate its purpose.

Palm shall give notice as provided in the section entitled "Parties' Contact Information" herein within thirty days after any change in the business operations of the Palm that results in its inability to comply with the terms of this Settlement Agreement. Within thirty days of such notification, the parties shall meet and attempt in good faith to negotiate any modifications to this Settlement Agreement that may be necessitated by the change.

15. RESOLUTION OF DISPUTES ARISING FROM AGREEMENT

If the EEOC has any reason to believe that this Settlement Agreement has been breached, the EEOC may bring an action in the United States District Court for the Central District of California to enforce this Settlement Agreement. At least sixty days prior to initiating such action, the EEOC shall notify the Palm in writing of the nature of the dispute, including a concise factual statement summarizing the dispute. During the 60-day period, the Palm may either cure the items in dispute or request a meeting with the EEOC wherein the Parties will attempt in good faith to resolve the items in dispute. After expiration of the 60-day period, the EEOC may initiate the enforcement action. In the event the Court finds that the Palm has violated this Settlement Agreement, the Court may order appropriate relief to remedy the noncompliance, including costs, attorneys' fees, daily fines, and appropriate injunctive relief.

If there is any dispute as to the interpretation or applicability of any part of this Settlement Agreement, the same notice and 60-day cure or resolution period shall apply before action is initiated. Each party shall bear its own costs and attorneys' fees incurred in such a dispute.

16. PARTIES' CONTACT INFORMATION

Any notice that one Party may be required to give to the other pursuant to the provisions of this Settlement Agreement shall be given by first-class mail and fax to the Parties. For purposes of notice and in order to facilitate necessary contact between the Parties to effectuate this Settlement Agreement, the following is the Parties' contact information:

EEOC:

Anna Y. Park, Esq.
Regional Attorney
Equal Employment Opportunity Commission
Los Angeles District Office
255 East Temple Street, 4th Floor
Los Angeles, CA 90012
Telephone: (213) 894-1083
Fax: (213) 894-1301
E-Mail: apark@eeoc.gov

Ms. Rosa Viramontes
Enforcement Manager
Equal Employment Opportunity Commission
Los Angeles District Office
255 East Temple Street, 4th Floor
Los Angeles, CA 90012
Telephone: (213) 894-1011
Fax: (213) 894-5482
E-Mail: rosa.viramontes@eeoc.gov

The Palm:

Mr. Scott Vasko
Vice President, Human Resources
Palm Management Corp.
1730 Rhode Island Ave., N.W., Suite 900
Washington, D.C. 20036
Telephone: (202) 775-7256
Fax: (202) 775-8292
E-Mail: svasko@thepalm.com

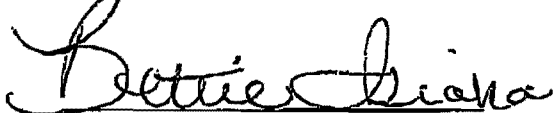
and

Jay P. Krupin, Esq.
Krupin O'Brien LLC
1156 Fifteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 467-2467
Fax: (202) 530-0703
jpk@krupinobrien.com

Each party shall notify the other in writing within ten business days of any change of contact person, address, fax or telephone number. .

17. SIGNATURE PAGE

For the Commission:

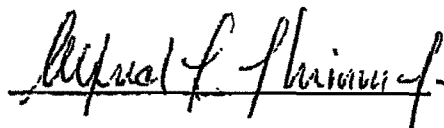


for Olophius Perry, Director
Los Angeles District Office

9/30/03

Date

For the Palm:



9.30.03

Date