IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
Plaintiff,	)	**Case No. 02 C 2240**
v.	)	
CARL BUDDIG & COMPANY	)	**Judge Samuel Der-Yeghiayan**
Defendant.	)	

CONSENT DECREE

THE LITIGATION

1. Plaintiff Equal Employment Opportunity Commission (the "EEOC") filed this action alleging that since at least January 1, 1991, Defendant, Carl Buddig & Company, ("Defendant" or "Buddig"), violated Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a), by discriminating against a class of Black applicants in hiring, against a class of female applicants in hiring, and against a class of female employees in job assignment (known collectively as “the claimants”). Buddig filed its Answer to the Complaint on May 28, 2002, denying the allegations.

2. In the interest of resolving this matter, and as a result of having engaged in comprehensive settlement negotiations, the parties have agreed that this action should be finally resolved by entry of this Consent Decree (hereafter "Decree"). This Decree fully and finally

resolves any and all issues and claims arising out of the Complaint filed by the EEOC in this action. Nothing in this Decree should be construed as an admission by either party regarding either liability or non-liability.

FINDINGS

3. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

a. This Court has jurisdiction of the subject matter of this action and of the parties.

b. The terms of this Decree are adequate, fair and reasonable. The rights of the parties, the claimants, and the public interest are adequately protected by this Decree.

c. This Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of the parties, the claimants, and the public.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

NON-DISCRIMINATION

4. Buddig, its officers, agents (including management personnel), successors, and assigns are enjoined from discriminating on the basis of race or sex in hiring and job assignment.

NON-RETALIATION

5. Buddig, its officers, agents, employees, successors, assigns and all persons acting in concert with it shall not engage in any form of retaliation against any person because such

person has opposed any practice of race or sex discrimination in hiring or job assignment made unlawful under Title VII, filed a Charge of Discrimination under Title VII alleging race or sex discrimination in hiring or job assignment, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII with respect to such a Charge, or asserted any rights under this Decree.

MONETARY RELIEF

6. Buddig shall pay the gross sum of two million five hundred thousand dollars ($2,500,000) ("the Settlement Fund") to the claimants. Distribution shall be as follows:

a. The payments are to be made as payment for damages. Each claimant whom the EEOC determines (with the Court's approval) is entitled to receive relief under this Decree shall receive an equal pro rata share of the settlement fund. None of the money shall be considered compensation for lost wages, so no withholdings shall be made from the pro rata share of the settlement paid to said claimants. Buddig will issue IRS Form 1099's with respect to the money paid. Inclusion of claimants in the class of claimants entitled to relief under this Decree and the division of the total amount among the claimants has been at the sole discretion of the EEOC, subject to Court approval. In exercising such discretion, EEOC will take into account the evidence and information available to it through the investigation and litigation of this matter. Buddig will have no part in determining how the monetary relief was divided among the claimants and it had no part in determining who the claimants were and which are entitled to relief.

b. Within ten (10) days of the entry of this Decree, EEOC shall mail to each eligible claimant a letter informing them of the settlement (Exhibit B, attached) and a blank release

(Exhibit A, attached).

c. In order to be eligible to receive payment through this Decree, each race class claimant must: a) be Black; b) have unsuccessfully applied for employment at Carl Buddig & Company between January 1, 1991and August 14, 2000; c) have been identified by EEOC as a potential claimant prior to August 5, 2004; d) have provided EEOC with documentation supporting his/her claim as requested by EEOC; and, e) have returned a signed release agreement which was actually received by the EEOC within the time frame provided in this Decree.

d. In order to be eligible to receive payment through this Decree, each gender class claimant must: a) be female; b) have unsuccessfully applied for a job at Carl Buddig & Company or worked as a packer at Carl Buddig & Company; c) have been identified by EEOC as a potential claimant prior to August 5, 2004; d) have provided EEOC with documentation supporting her claim as requested by EEOC; and, e) have returned a signed release agreement which was actually received by the EEOC within the time frame provided in this Decree.

e. EEOC shall require all claimants to submit signed Releases, in the form of Exhibit A, attached, to EEOC within sixty (60) days of the entry of this Decree. **ANY CLAIMANT WHOSE EXECUTED RELEASE IS NOT ACTUALLY <u>RECEIVED</u> BY EEOC WITHIN SIXTY (60) DAYS AFTER THE ENTRY OF THIS DECREE SHALL BE DEEMED, WITHOUT FURTHER ACT OR DEED BY ANY PERSON OR THE COURT, TO BE INELIGIBLE FOR AND FOREVER BARRED FROM RECEIVING ANY PAYMENTS OR OTHER RELIEF UNDER THIS DECREE.**

f. Within ninety (90) days of the entry of this Decree, EEOC shall file with the Court, for the Court's consideration, its list of eligible claimants. EEOC shall also file with the

Court a list of claimants excluded by EEOC and a short statement of the reason for the exclusion.

g. Within ninety (90) days of the entry of this Decree EEOC shall serve Buddig with its list of eligible claimants and their current addresses along with their executed Releases and a statement as to whether each claimant wishes to be considered for future employment at Buddig.

h. Within thirty (30) days after entry of this Decree, Buddig shall establish and maintain a segregated account on its books, as a liability, for the Settlement Fund in accordance with generally accepted accounting principles. The Settlement Fund shall accrue interest, compounded daily, at a rate equal to the thirty (30) day Treasury Bill Rate (or the closest comparable rate thereto) as published in the Wall Street Journal on the date of entry of this Decree. The Settlement Fund shall accrue interest beginning thirty (30) days after entry of this Decree and continuing until the day prior to the date checks are issued, as provided for by sub-paragraph 6.i. of this Decree, and the interest will be credited to the account at least once per month.

i. Within fifteen (15) business days after Court approval of EEOC's list of eligible claimants, Buddig shall issue and mail by certified mail to each EEOC claimant, by check a pro rata share of the amount in the Settlement Fund Account.[1] In the event that a check is deemed undeliverable, Buddig shall advise the EEOC. The EEOC shall then have an additional thirty (30) days to provide an alternative address for the mailing of such check. If any checks remain undeliverable (including any returned from the alternate address), then Buddig shall issue a check

[1] Buddig may chose to round the amount paid to each claimant down to the nearest whole dollar. In the event that Buddig chooses to do so, any amount remaining after disbursement due to such rounding shall be paid to the charity agreed to by the parties in this Paragraph 6.i. of this Decree.

in the aggregate amount thereof to Chicago Commons. Upon issuance of any such check to Chicago Commons, Buddig shall be released from all obligations under this Decree to make any payment to such claimants, and the right of such claimants to receive any monetary or other relief under this Decree shall be extinguished and forever barred. No portion of the monetary relief provided for by this Decree shall revert to Buddig.

POSTING OF NOTICE

7. Within ten (10) business days after entry of this Decree, Buddig shall post same-sized copies of the Notice attached as Exhibit C to this Decree on bulletin boards usually used by Buddig for communicating with employees at its South Holland, Illinois production facilities. The Notices shall remain posted for three (3) years from the date of entry of this Decree. Buddig shall take all reasonable steps to ensure that the postings are not altered, defaced or covered by any other material. Buddig shall certify to the EEOC in writing within ten (10) business days after entry of the Decree that the Notices have been properly posted. Buddig shall permit a representative of the EEOC to enter Buddig's premises for purposes of verifying compliance with this Paragraph at any time during normal business hours without prior notice.

HIRING RELIEF

8. Within one hundred fifty (150) days of the entry of this Decree, EEOC shall provide Buddig with a list of claimants eligible for relief who still wish to be considered for employment by Buddig. Thereafter, for the duration of the period of this decree, when Buddig fills production positions at its South Holland facilities, it shall alternate hiring one employee from the list of interested claimants and one employee from its usual applicant flow. If Buddig exhausts the list of interested claimants prior to the expiration of this Decree, its duty to hire from

the list of interested claimants is fulfilled.

9. Buddig shall exercise its best efforts to assure that non-discriminatory hiring from its applicant pool reflects the racial and sexual diversity of its applicant pool.

10. Notwithstanding the provisions of paragraphs 8 and 9, above, Buddig shall have no obligation to hire an unqualified claimant.

11. For the duration of this Decree, no more than two-thirds of Buddig hires shall be made through employee referrals.

12. All vacancies within Buddig's South Holland production facilities shall be posted throughout the facilities, in areas accessible and generally viewed by all production workers regardless of their position. Postings for all vacancies shall state any minimum qualifications.

13. Buddig shall attempt to recruit new employees from local vocational schools and community colleges in order to recruit diverse groups of qualified applicants. The number of schools contacted and the nature of the relationships established shall be within the sole discretion of Buddig.

14. Women who apply for employment at Buddig's production facilities and who do not specifically indicate an interest in packing jobs will be considered on a non-discriminatory basis for all vacant production positions at the time of application.

RECORD KEEPING

15. For a period of three (3) years following entry of this Decree, Buddig shall maintain and make available for inspection and copying by the EEOC records (including name, race, sex, social security number, address, telephone number (to the extent the applicant provides this information on

his/her application and/or self-identification form), position applied for, date of application, whether or not the applicant received an offer of employment, whether those offered employment began working, and if they did not, the reason why they did not) of each person applying for employment in Buddig's South Holland production facilities.

16. In the event that Buddig determines that an interested claimant on the alternate hire list contemplated by Paragraph 8, above, is not qualified for employment with Buddig, Buddig shall keep records of the claimant's application and the basis for Buddig's determination that the claimant is not qualified for employment.

17. In the event that a female applies for a position in utility, sanitation, shipping, maintenance or as a line operator and is not hired for that position, Buddig shall record the basis for the decision and any facts supporting its decision not to hire the female applicant.

18. Buddig shall make all documents or records referred to in Paragraphs 15, 16 and 17, above, available for inspection and copying within fifteen (15) business days after the EEOC so requests. In addition, Buddig shall make available for interview all persons within its employ whom the EEOC reasonably requests for purposes of verifying compliance with this Decree and shall permit a representative of the EEOC to enter Buddig's premises for such purposes on ten (10) business days advance notice by the EEOC.

19. Nothing contained in this Decree shall be construed to limit any obligation Buddig may otherwise have to maintain records under Title VII or any other law or regulation.

REPORTING

20. Buddig shall furnish to the EEOC the following written reports every nine months for a period of three (3) years following entry of this Decree. The first report shall be due nine

(9) months after entry of the Decree. The final report shall be due ten (10) days prior to thirty-six (36) months after entry of the Decree. Each such report shall contain:

a. A summary of the information recorded by Buddig pursuant to Paragraphs 15, 16 and 17 during the preceding six month period;

b. A certification that all vacancies have been posted in accordance with Paragraph 10 during the preceding six month period;

c. A description of the contacts made pursuant to Paragraph 13 during the preceding six month period; and,

d. A certification by Buddig that the Notice required to be posted in Paragraph 7, remained posted during the entire preceding six month period.

TRAINING

21. Buddig shall provide training on the requirements of Title VII on the following terms:

a. Buddig hereby represents and warrants that the law firm of Neal, Gerber & Eisenberg LLP provided training with respect to Title VII's requirements for equal opportunity in hiring and job assignment with regard to race and sex in March 2004.

b. Buddig further represents and warrants that the training was provided to all Buddig employees in any way involved in the hiring process, including employees responsible for providing applications to the public.

c. Buddig shall submit to the EEOC any and all information that was provided to the attendees of the March 2004 training within ten (10) business days of the entry of this Decree.

d. Buddig shall also provide such training on at least one occasion during the final six months of the Decree period (March 2, 2007 through September 2, 2007).

22 Buddig shall obtain the EEOC's approval of its proposed trainer prior to the training session which is to occur in the final six (6) months of the Decree. Buddig shall submit the name, address, telephone number and resume of the proposed trainer, together with the date(s) of the proposed training sessions to the EEOC within sixty (60) calendar days prior to the first day of the proposed date(s) of training. The EEOC shall have thirty (30) calendar days from the date of receipt of the information described above to notify Buddig in writing if it does not accept the proposed trainer(s). In the event the EEOC does not approve Buddig's designated trainer(s), Buddig shall have thirty (30) calendar days to identify an alternate trainer. The EEOC shall have fifteen (15) calendar days from the date of receipt of the information described above to notify Buddig in writing if it does not accept the proposed alternative trainer(s). In the event the EEOC does not approve Buddig's alternate trainer, the EEOC shall designate the trainer to be retained and paid for by Buddig. EEOC acceptance of a proposed trainer designated by Buddig shall not be unreasonably withheld. If the EEOC does not approve the original or alternative trainer provided by Buddig, the time limits designated in paragraph 22 (d) shall be tolled until Buddig has received written notice that a trainer has been approved or designated by the EEOC and the Court's jurisdiction over this Decree shall be extending until the training has been completed and certified.

23. Buddig shall certify to the EEOC in writing with ten (10) business days after the trainings have occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (i) the dates, location and duration of the trainings;

and, (ii) a copy of the registry of attendance, which shall include the name and position of each person in attendance..

DISPUTE RESOLUTION

24. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance within thirty (30) days of learning of the alleged non-compliance and shall afford the alleged non-complying party ten (10) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for appropriate relief.

DURATION OF THE DECREE AND RETENTION OF JURISDICTION

25. All provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of three (3) years immediately following entry of the Decree, provided, however, that if, at the end of the three (3) years period, any disputes under Paragraph 24, above, remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

MISCELLANEOUS PROVISIONS

26. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.

27. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of Buddig in their capacities as

representatives, agents, directors and officers of Buddig, and not in their individual capacities. This paragraph shall not be construed as placing any limit on remedies available to the Court in the event that any individual is found to be in contempt for a violation of this Decree.

28. When this Decree requires the submission by Buddig of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to: Buddig Settlement, c/o Ethan M. M. Cohen, Trial Attorney, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois, 60661. When this Decree requires submission by the EEOC of materials to Buddig, they shall be mailed to: Beth T. Golub, Seyfarth Shaw, 55 East Monroe Street, Suite 4200, Chicago, IL 60603.

For the EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 L Street, N.W.
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Eric Dreiband
General Counsel

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Trial Attorney

DATE: _____

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_____

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_____
Beth T. Golub
Seyfarth Shaw LLP
55 East Monroe Street, Suite 4200
Chicago, IL 60603

_____
ENTER:

The Honorable Samuel Der-Yeghiayan
United States District Judge

EXHIBIT A

RELEASE AGREEMENT

I, *XXXXXXXXXX*, for and in consideration of the sum of to be paid to me pursuant to the terms of the Consent Decree entered by the Court in EEOC v. Carl Buddig & Company, No. 02 C 2240 (N.D. Ill.), on behalf of myself, my heirs, assigns, executors, and agents, do hereby forever release, waive, remise, acquit, and discharge Carl Buddig & Company ("Buddig"), and all past and present shareholders, officers, agents, employees, and representatives of Buddig, as well as all successors and assignees of Buddig, from any and all claims and causes of action of any kind which I now have or ever have had under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., as a result of or arising from the subject matter and claims which were or which could have been asserted in EEOC v. Carl Buddig & Company, No. 02 C 2240.

_____ _____

Date *XXXXXXXXXX*

EXHIBIT B

_____, 2004

XXXXXXXXXXX
XXXXXXXXXXX
XXXXX,XXXXX

Re: EEOC v. Carl Buddig & Company
No. 02 C 2240 (N.D. Ill.)

Dear Mr. XXXXXXXXX:

A Consent Decree resolving the above-referenced lawsuit was signed by the parties and entered by the Court on September 2, 2004. Pursuant to the terms of the Consent Decree, enclosed you will find a copy of a Release to be signed by you. All eligible claimants will receive an equal share of the settlement – approximately xxxxx thousand dollars ($X,000) per claimant.

In order to obtain any monetary relief under the Consent Decree in this case, you must sign the Release and EEOC must receive it by XXXXXX. If EEOC does not receive your signed Release by this date, for any reason, you will not receive a payment from the settlement fund. Please mail the signed Release to me at the following address:

Buddig Settlement
c/o Ethan Cohen
Equal Employment Opportunity Commission
500 West Madison Street, Suite 2800
Chicago, Illinois 60661

I have enclosed a pre-addressed envelope for your convenience. You may, of course, wish to make and keep a copy of the signed Release for your own records.

If you have any questions about the Release or cannot sign and return the enclosed documents within seven days, please contact me at (312) 353-0910.

Sincerely,

Ethan M. M. Cohen
Trial Attorney

Encls.

EXHIBIT C
NOTICE TO ALL CARL BUDDIG EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Carl Buddig & Company, No. 02 C 2240 (N.D. Ill.), resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Carl Buddig & Company, ("Buddig").

In its suit, the EEOC alleged that Buddig discriminated against Blacks in hiring and against women in hiring and job assignment, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Buddig denied these allegations.

To resolve the case, and without admitting liability or non-liability by either party Buddig and the EEOC have entered in to a Consent Decree which provided, among other things, that:

1) Buddig provide monetary relief to claimants;

2) Buddig will not discriminate on the basis of race and sex in hiring or job assignment during the period of the Consent Decree;

3) Buddig will not retaliate against any person because he or she opposed any practice of race or sex discrimination in hiring or job assignment made unlawful by Title VII, filed a Title VII charge of discrimination alleging race or sex discrimination in hiring or job assignment, participated in any Title VII proceeding with respect to such a charge, or asserted any rights under the Consent Decree.

The EEOC enforces the federal laws against discrimination in employment on the basis of race, sex, color, religion, national origin, age or disability. If you believe you have been discriminated against, you may contact the EEOC at (312) 353-8195. The EEOC charges no fees and has employees who speak languages other than English. If you believe you have been discriminated against you may contact the EEOC.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for three years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to: Buddig Settlement, EEOC 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

_____ _____

Date

John Rowe
District Director