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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
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Philadelphia, PA 19106
Attorney for Plaintiff EEOC

FILED
SEP 10 2003
AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, WALTER RAMOS, JOSEFA KAZIOR and DOROTA RYCKO, Plaintiff-Intervenors, v. CONTROL BUILDING SERVICES, INC., Defendant.	)	Civil Action No. 01-CV-03822(WHW)

ENTERED
SEP 11 2003

CONSENT DECREE

Introduction

A. This action was instituted by the U.S. Equal Employment Opportunity Commission ("the EEOC" or "the Commission") on August 13, 2001, against Control Building Services, Inc. ("Control") to enforce provisions of Title VII of the Civil Rights of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"). The Commission alleged that Control discriminated against Josefa Kazior ("Kazior") when it subjected her to a hostile work environment based on her national origin, Polish, and her sex, female, and retaliated against her when she refused the advances of her supervisor. The Commission alleged that Control

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discriminated against Walter Ramos ("Ramos") when it subjected him to a hostile work environment based on his national origin, Peruvian, and his race, dark-skinned Hispanic. The Commission alleged that Control discriminated against Dorota Rycko ("Rycko") when it subjected her to a hostile work environment based on her national origin, Polish, and her sex, female, retaliated against her when she refused the advances of her supervisor, and that, as a result of the alleged harassment, she was constructively discharged in March 1999. Control denies all of these allegations.

B. This Consent Decree is entered into by and shall be final and binding between the EEOC and Control, its directors, officers, agents, successors and assigns.

C. The EEOC and Control agree to entry of this Consent Decree, which shall fully and finally resolve all claims the EEOC raised in its Complaint in Civil Action No. 01-CV-03822 (WHW). This Consent Decree shall not constitute either an adjudication of or finding on the merits of the complaint and shall not be construed as an admission by Control of any violation of Title VII.

Findings

D. Having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings, record and stipulations of the parties, the Court finds: (1) it has jurisdiction of the parties and subject matter jurisdiction of this action; and (2) the terms of this Decree are fair, reasonable, equitable and just, and adequately protect the rights of the parties, class members and the public interest.

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

Non-Discrimination and Non-Retaliation

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

2. Control is enjoined from harassment of any employee on the basis of national origin or sex in violation of Title VII.

3. Control is enjoined from engaging in any employment practices which retaliate in any manner against any person, including but not limited to Kazior, Ramos and Rycko, because of that person's opposition to any practice made an unlawful employment practice under Title VII or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title VII.

4. Control shall not divulge, directly or indirectly, to any identifiable employer or potential employer of Kazior, Ramos or Rycko any of the facts or circumstances related to the claims of discrimination against Control in this case or any of the events relating to the participation of Kazior, Ramos or Rycko in the litigation of this action.

5. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of Control under Title VII or the EEOC's authority to process or litigate any charge of discrimination now pending or filed in the future against Control.

Monetary Relief

6. Within 10 business days after receipt of a Settlement Agreement and Release executed by Kazior and the Court's entry of an order approving this Consent Decree, Control agrees to pay monetary relief in the amount of $325,000 to Kazior, comprised of $55,000 in compensatory damages, $195,000 on account of physical injury and harm, and $75,000 as

attorney's fees, in full settlement of the claims raised on her behalf against Control in the EEOC's Complaint. The checks will be mailed to Walter Drobenko, Esquire, Drobenko & Associates, 25-84 Steinway Street, Astoria, New York 11103, and a copy within five business days thereafter to the attention of Mary M. Tiernan, Senior Trial Attorney, EEOC, 21 South Fifth Street, Suite 400, Philadelphia, PA 19106-2515. In order to receive this monetary relief, Kazior must execute a release satisfactory in form to Control.

7. Within 10 business days after receipt of a Settlement Agreement and Release executed by Ramos and the Court's entry of an order approving this Consent Decree, Control agrees to pay monetary relief in the amount of $75,000 to Ramos, comprised of $50,000 in compensatory damages and $25,000 as attorney's fees, in full settlement of the claims raised on his behalf against Control in the EEOC's Complaint. The check will be mailed to Walter Drobenko, Esquire, Drobenko & Associates, 25-84 Steinway Street, Astoria, New York 11103, and a copy within five business days thereafter to the attention of Mary M. Tiernan, Senior Trial Attorney, EEOC, 21 South Fifth Street, Suite 400, Philadelphia, PA 19106-2515. In order to receive this monetary relief, Ramos must execute a release satisfactory in form to Control.

8. Within 10 business days of receipt of a Release executed by Rycko and the Court's entry of an order approving this Consent Decree, Control agrees to pay monetary relief in the amount of $175,000 to Rycko, comprised of $116,667.00 in compensatory damages and $58,333.00 as attorney's fees, in full settlement of the claims raised on her behalf against Control in the EEOC's Complaint. The check will be mailed to Walter Drobenko, Esquire, Drobenko & Associates, 25-84 Steinway Street, Astoria, New York 11103, and a copy within five business days thereafter to the attention of Mary M. Tiernan, Senior Trial Attorney, EEOC, 21 South Fifth

Street, Suite 400, Philadelphia, PA 19106-2515. In order to receive this monetary relief, Rycko must execute a release satisfactory in form to Control.

Posting of Notice

9. Within 20 business days after entry of this Decree, Control shall post at all facilities, work sites and contract sites in New Jersey, New York City, Long Island and Westchester County, New York, on all bulletin boards, used by Control for communicating with employees, same-sized copies of the Notice attached as Exhibit 1 to this Decree. The Notice shall remain posted for two years from the date of entry of this Decree. A copy of the Notice will be posted in English and Spanish, and in Polish at work sites known to have Polish employees. Control shall provide to the attention of Mary M. Tiernan, Senior Trial Attorney, EEOC, 21 South Fifth Street Suite 400, Philadelphia, PA 19106-2515, a list of the locations and dates of posting in each location within 40 days after entry of this Decree. If posted copies become defaced, removed, marred or otherwise illegible, Control agrees to post a readable copy in the same manner as heretofore specified.

Non-Discrimination and Anti-Harassment Policies and Complaint Procedures

10. Control's policy or policies against discrimination, harassment and retaliation and complaint procedures shall be drafted in plain and simple language, and be available in English, Spanish and, as necessary, Polish. Control shall ensure that its policy or policies against discrimination, harassment and retaliation and related complaint procedures meet the following minimum criteria:

(a) state that Control: (i) prohibits discrimination against employees on the basis of national origin, sex, race, religion and color, and prohibits retaliation in violation

of Title VII; (ii) prohibits retaliation against employees for opposing employment practices they reasonably believe are discriminatory or for participating in an investigation by the EEOC or a state or local governmental agency of a charge of discrimination under Title VII; (iii) prohibits any act, policy or practice that has the effect of harassing or intimidating any employee on the basis of national origin, sex, race, religion or color in violation of Title VII; and (iv) prohibits any act, policy or practice that has the effect of creating, facilitating or permitting the existence of a work environment that is hostile to employees through acts such as physical/verbal abuse and derogatory comments based on national origin, sex, race, religion or color in violation of Title VII;

(b) include a complaint procedure designed to encourage employees to come forward with complaints regarding violations of its policy or policies against discrimination, harassment and retaliation, which shall meet the following minimum criteria: (i) provide effective mechanism(s) for reporting incidents of discrimination, harassment and retaliation; (ii) provide that the complaints of discrimination, harassment and/or retaliation can be made either in writing or verbally; (iii) identify employees in the Human Resources Department to whom an employee can make a complaint; (iv) provide a 24-hour toll-free message center with instructions in English, Spanish and Polish that an employee may call to make a complaint of discrimination, harassment or retaliation; (v) provide that, upon an employee's request to the Human Resources Department, Control will offer translating assistance for filing a written complaint in English or otherwise communicating during the investigation of a

complaint; (vi) encourage prompt reporting by employees; and (vii) provide assurances that complainants shall not be subjected to retaliation;

(c) provide for prompt investigation of complaints of harassment and/or retaliation;

(d) provide for prompt communication to the complaining party of the results of the investigation and any remedial actions taken or proposed; and

(e) provide for discipline up to and including discharge of an employee or supervisor who violates Control's policy or policies against discrimination, harassment and retaliation, and for increasingly severe discipline of repeat offenders.

11. Control shall distribute to all of its employees and newly-hired employees in New Jersey, New York City, Long Island and Westchester County, New York, its policy or policies against discrimination, harassment and retaliation within 90 days after entry of this Consent Decree. Such policy or policies will be available in English and Spanish, and in Polish at work sites known to have Polish employees.

12. Within 90 days after entry of this Consent Decree, Control shall advise Mary M. Tiernan, Senior Trial Attorney, EEOC's Philadelphia District Office, that its policy or policies against discrimination, harassment and retaliation have been distributed to current employees via paycheck enclosure and that new employees will receive these policies and an opportunity to acknowledge receipt. Acknowledgment of receipt forms will be made available in English and Spanish, and in Polish, as necessary. Control will retain copies of any acknowledgment of receipt form for an employee in both the employee's personnel file and in centralized file in the corporate Human Resources Department.

13. Control shall twice annually for the duration of the Consent Decree send a copy of its policy or policies against discrimination, harassment and retaliation with each employee's paycheck.

Supervisor Accountability

14. Control shall promote supervisor accountability by the following conduct:

(a) providing annual anti-discrimination training to all of its supervisory and managerial personnel as set forth in Paragraphs 15 and 16;

(b) disciplining, up to and including discharge, any supervisor or manager who violates Control's policy or policies against discrimination, harassment and retaliation;

(c) imposing on all managers and supervisory personnel a duty to administer their work areas to ensure compliance with Control's policy or policies against discrimination, harassment and retaliation; and

(d) requiring all managers and supervisors to report any incidents and/or complaints of harassment and/or retaliation of which they become aware to the Corporate Human Resources Department.

Training

15. Control shall provide training on the requirements of Title VII as follows:

(a) Control agrees to provide annual training sessions for all of its managers and supervisors in New Jersey, New York City, Long Island and Westchester County, New York, and to all Human Resources Department employees by a trainer or vendor approved by the EEOC to provide training on employee rights and employer obligations

under both Title VII and relevant state or local anti-discrimination laws, which training will emphasize what constitutes unlawful harassment and discrimination in the workplace, how to keep the company free from such discrimination, what constitutes unlawful retaliation and will summarize how to conduct a prompt and effective investigation into allegations, complaints or charges of discrimination;

(b) each training session will include a videotaped presentation by a high-ranking official of Control, emphasizing Control's commitment to prevent discrimination and harassment;

(c) Control shall first provide training in accordance with Paragraph 15(a) by no later than 120 calendar days after entry of this Consent Decree and also shall provide such training in calendar year 2004.

16. In addition to the training described in Paragraph 15 within 120 calendar days of the entry of the Consent Decree, Control shall provide training to all employees and supervisors in its Human Resources Department regarding how to conduct a prompt and effective investigation into allegations, complaints or charges of employment discrimination.

17. Control shall obtain the EEOC's approval of its proposed trainer prior to each year's training sessions.

18. Control agrees at its expense to provide the EEOC with copies of all pamphlets, brochures, outlines or other written materials provided to attendees of training sessions. Even though the EEOC has approved of or designated a trainer to provide training for one year, it is not required to approve of or designate the same trainer for future training sessions.

19. Control shall certify to the EEOC in writing within 10 business days after the training sessions required by Paragraphs 15 and 16 have occurred that the training has taken place and the personnel who attended. Such certification shall include: (i) the dates, location and duration of the training session; (ii) a copy of the registry of attendance, including the name and position of each person in attendance; and (iii) a listing of all managers and supervisors in New Jersey, New York City, Long Island and Westchester County, New York, and all employees and supervisors in its Human Resources Department as of the date of the training.

Recordkeeping

20. For a period of two years following entry of this Decree, Control shall document and retain in a centralized file in Corporate Human Resources records of each complaint of an incident of discrimination or harassment, based on national origin, sex and/or retaliation by any employee in New Jersey, New York City, Long Island or Westchester County, New York, reflecting the date the complaint was made, who made it, what was alleged and the actions, if any, Control took to resolve the matter, and shall at its expense make such records available for inspection and copying by the EEOC. Control also shall maintain records of all actions it takes to prevent discrimination and harassment at all of its facilities, work sites and contract sites in *New Jersey, New York City, Long Island and Westchester County, New York, during the term* of this Consent Decree.

21. Control shall make all documents or records referred to in Paragraph 20 available for inspection and copying within 10 business days after the EEOC so requests. In addition, Control shall make available for interview all persons in 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 Control's premises for such purposes on five business days' advance notice by the EEOC.

22. Nothing in this Decree shall be construed to limit any obligation Control otherwise may have to maintain records under Title VII or any other law or regulation. After expiration of this Consent Decree, records will be maintained by Control as required by law and Commission regulations.

Reporting

23. Control shall furnish to the EEOC the following written reports semi-annually for a period of two years following entry of this Decree with the first report due six months after entry of the Decree and the final report due 24 months after entry of the Decree. Each such report shall contain:

(a) a summary of the information recorded by Control pursuant to Paragraph 20, including the name of the complainant, the allegation of the complaint and any action taken by Control in response;

(b) a certification by Control that the Notice required to be posted by Paragraph 9 was posted during the six months preceding the report;

(c) a certification by Control that it has or will distribute the policy or policies against discrimination, harassment and retaliation twice annually to employees, and that Control has disseminated the policy or policies against discrimination, harassment and retaliation to all new employees hired within the six-month period preceding the report;

(d) a certification that Control has complied with training requirements of this Consent Decree;

(e) a summary of any additional actions Control took to prevent discrimination, harassment and retaliation at all of its facilities, work sites and contract sites, in New Jersey, New York City, Long Island and Westchester County, New York, during the six-month period preceding the report.

Dispute Resolution

24. In the event either party to this Decree believes 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 20 days of the alleged non-compliance and afford the alleged non-complying party 20 business days to remedy the non-compliance or 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 20 business days, the complaining party may apply to the Court for appropriate relief. Except for claims involving the Title VII rights of Kazior, Rycko or Ramos, this Decree shall not be deemed as a waiver by Control of any defenses, procedural or otherwise, to any claim that Control violated Title VII.

Miscellaneous Provisions

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

26. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, successors and assigns of Control in their capacities as representatives, agents, directors and officers of Control 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 any individual is found in contempt for a violation of this Decree.

27. This Consent Decree shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 01-CV-03822 (WHW).

28. This Consent Decree shall be filed in the United States District Court for the District of New Jersey and shall continue in effect for two years. During this time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate its purposes. Any application by any party to modify or vacate this Consent Decree during such period shall be made by motion to the Court on no less than 30 days' notice to the other party. Should any material disputes under this Decree remain unresolved after this two-year period, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Consent Decree) until such time as all disputes have been resolved.

29. The Clerk of the District Court is hereby directed to send a file-stamped copy of this Consent Decree to counsel of record.

8-24-03

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Attorneys for Plaintiff
Equal Employment Opportunity Commission

SO ORDERED:

By the Court: _____
WILLIAM H. WALLS
UNITED STATES DISTRICT JUDGE

Date: _____

EXHIBIT 1

NOTICE TO ALL CONTROL BUILDING SERVICES, INC. EMPLOYEES

This Notice is posted pursuant to a Consent Decree entered by the federal court for the District of New Jersey in EEOC v. Control Building Services, Inc., Civil Action Number 01-CV-03882 (WHW), resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Control Building Services, Inc. ("Control")

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., as amended ("Title VII"), prohibits discrimination against employees and applicants for employment based upon national origin, sex, race, color or religion. Title VII further prohibits retaliation against employees or applicants who avail themselves of the rights under Title VII by engaging in protected activities, such as filing a charge of discrimination and/or testifying or participating in a Commission investigation. The EEOC is the federal agency which investigates charges of unlawful employment discrimination. The EEOC has the authority to bring lawsuits in federal court to enforce Title VII.

In its lawsuit, the EEOC alleged that Control subjected employees to harassment based on sex, race and national origin, retaliated against employees, and constructively discharged an employee in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Control denies these allegations.

To resolve the case, Control and the EEOC have entered into a Consent Decree which provided, among other things, that: (1) Control pay monetary relief to three former employees; (2) Control not discriminate on the basis of national origin, sex or race, in the future; (3) Control not retaliate against any person because he or she opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and (4) Control will train all managers and supervisors in New Jersey, New York City, Long Island and Westchester County, New York and all employees and supervisors in its Human Resources Department regarding discrimination, harassment and retaliation, and regarding its policy prohibiting discrimination, harassment and retaliation.

If you believe you have been discriminated against, you may contact the EEOC at (973) 645-6383. The EEOC charges no fees and has employees who speak languages other than English.

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

This Notice must remain posted for two 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 the: Regional Attorney, EEOC Philadelphia District Office, 21 South 5th Street, Philadelphia, PA 19106.

Jacqueline McNair

U.S. Equal Employment Opportunity Commission

DATED: 8/28/03

Control Building Services, Inc.

DATED: _____

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