

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION AT ASHLAND**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	Civil Action No. 0:10-cv-00064
)	HRW
PLAINTIFF,)	
)	
v.)	
)	
MMS RESOURCES, INC., a/k/a MERCHANT)	
MANAGEMENT SYSTEMS, INC.,)	
DEFENDANT.)	

CONSENT DECREE

The United States Equal Employment Opportunity Commission (the "EEOC" or "Commission") commenced this action against MMS Resources, Inc., a/k/a Merchant Management Systems, Inc. ("MMS") pursuant to Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 ("Title VII") to address allegations that MMS subjected a class of female employees to sexual harassment.

On or about August 15, 2011, MMS filed for bankruptcy protection under Chapter 7 (seven) of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Kentucky, case number 11-52308-j1. As a result MMS shall no longer operate as a going concern upon the completion of the bankruptcy proceedings.

The Commission and MMS stipulate to the Court's jurisdiction over the parties. Further, the Commission and MMS desire to resolve Civil Action No. 0:10-cv-00064-HRW without the burden and expense of further litigation. As a result, and based on the pleadings and the record as a whole, the Court finds that: [i] the Court has

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jurisdiction over the parties and the subject matter of this action; [ii] the purpose and provisions of Title VII will be promoted and effectuated by the entry of this Decree; and [iii] this Decree resolves all the matters in controversy between the parties and all related issues as provided in paragraphs 1 through 8 below.

In consideration of the promises made below, Plaintiff and Defendant agree and **IT IS THEREFORE ADJUDGED, ORDERED AND DECREED** as follows:

1. This Decree is entered in full and complete settlement with prejudice of any all claims arising out of or contained in this lawsuit, Civil Action No. 0:10-cv-00064-HRW

2. The term of this Decree shall be for thirty (30) months following the date of the entry of this Decree (the "Consent Period").

3. MMS shall pay the cumulative total sum of Three Hundred Sixty Five Thousand Dollars (\$365,000.00) to former MMS employees Wanda Reaper, Traci Riddle, Rosie Moreland, Nicole (Adams) Vanderpool, Misty Yates, Ludi Hurley, Christy Goldsworthy, Beth Roberts, Gina McDowell, Michelle (McBride) Young and Tammy Ronan (the "class").

4. Payments to the individuals in the class shall be made in the following amounts and to their respective addresses:

Wanda Reaper 57 Dwight Street Flatwoods, KY 41139	<u>\$50,000.00</u>
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Traci Riddle 6305 Amberly Court Suffolk, VA23435	<u>\$50,000.00</u>
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Rosie Moreland 9669 Rt. 141 Kitts Hill, OH 45645	<u>\$50,000.00</u>
Nicole (Adams) Vanderpool 3850 Cactus Street Ashland, KY 41101	<u>\$50,000.00</u>
Misty Yates 3330 Conbit Ashland, KY 41101	<u>\$50,000.00</u>
Christy Goldsworthy HHC, 1-72 AR Bn Unit 15077 Box 421 APO AP 96224	<u>\$40,000.00</u>
Ludi Hurley 604 Tup Road 248N Kitts Hill, OH 45645	<u>\$30,000.00</u>
Beth Roberts 8113 State Highway 773 Denton, KY 41132	<u>\$15,000.00</u>
Gina McDowell 248 Muskgrove Road Chillicothe, Ohio 45601	<u>\$10,000.00</u>
Michelle (McBride) Young 2520 Auburn Ave. Ashland, KY 41102	<u>\$10,000.00</u>
Tammy Ronan 605 Center Ave. Wurtland, KY 41144	<u>\$10,000.00</u>

5. The amount of and timing of the payments to the class shall be made in accordance with the resolution of the MMS bankruptcy filing, case number 11-52308-j1.

6. During the Consent Decree Period, should Brian "Pat" Reed, the owner, founder, President and executor of this Agreement on behalf of MMS, purchase, open, or

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own a going business concern (the "New Concern"), said concern shall abide by the following:

A. The New Concern shall create a policy prohibiting sexual harassment against its employees. Such policy shall be posted within thirty (90) days of the hiring of the first employee and shall be disseminated to all employees. No later than ten (10) days before the policy is posted, the New Concern shall submit a copy to the Commission for review. The proposed policy shall be sent to Laurie A. Young (or her successor), Regional Attorney, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio St., Suite 1900, Indianapolis, Indiana 46204.

B. Within ninety (180) days of the hiring of the first employee, the New Concern shall provide a training program to all of its employees, supervisors and managers at its business cite(s). This training program shall include an explanation of the requirements of Title VII's prohibition of sexual harassment, including Title VII's non-retaliation provisions. Thirty (30) days before the training, the New Concern shall provide: [i] notice to the Commission of the date, time, and place of the training; [ii] shall send to the Commission a copy of the training program and all written materials, if any, to be used; and [iii] shall provide the Commission with a roster of all employees who will receive the training. The Commission may provide reasonable input on the content of the training but shall do so no later than ten (10) days prior to the training. For the duration of this decree, any and all new hires at the New Concern's location(s) will also receive the same training as the employees who are unable to attend the group training sessions.

C. Upon completion of the training required under Paragraph 6B of this Decree, the New Concern shall certify to the Commission the specific training that was

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undertaken and shall provide the Commission with a roster of all employees who received the training. All reports shall be sent to the attention of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio Street, Suite 1900, Indianapolis, IN 46204-4203.

D. The New Concern shall permit the EEOC to review its compliance with the provisions of this Decree. As part of such review and after providing seven days notice, the EEOC may inspect the New Concern's premises, interview its employees, and examine and copy pertinent documents.

E. In the event that the EEOC determines that a violation of this Decree has occurred, it will, prior to exercising any remedy provided by law, provide written notice to the New Concern specifically identifying the alleged violation(s). The New Concern will have thirty (30) days in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or any such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation before the Commission exercises any remedy provided by law.

7. The Commission and MMS shall each bear its own costs and attorney fees.

8. **RETENTION OF JURISDICTION BY COURT:** The Court will retain jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

IT IS SO ORDERED:

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Signed By
Henry R. Wilhoit, Jr.
United States District Judge

Date 11/18/11

Judge, United States District Court

Agreed and Consented to by:

The Equal Employment Opportunity
Commission

MMS Resources, Inc., a/k/a
Merchant Management Systems, Inc.

Kenneth W. Brown

Kenneth W. Brown
Attorney for Plaintiff

11/18/11
Date:

Brian "Pat" Reed

Brian "Pat" Reed
Owner and President of Defendant

10-27-11
Date