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EEOC v. High-Tech Institute, Inc., d/b/a Anthem College Online

Judge Roslyn L. Silver

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EEOC v. High-Tech Institute, Inc., d/b/a Anthem College Online

Keywords

EEOC, High-Tech Institute, Anthem College Online, CV-09-2041-PHX-ROS, Consent Decree, Hostile Work Environment, Sexual Harrassment, Education, Employment Law, Title VII

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity
Commission,

Case No. CV-09-2041-PHX-ROS

Plaintiff,

CONSENT DECREE

vs.

High-Tech Institute, Inc., d/b/a Anthem
College Online,

Defendant.

IT IS ORDERED the parties’ joint motion to approve consent decree
(**Doc. 115**) is **GRANTED AS MODIFIED**, as follows:

References to Exhibits are to those attached to Doc. 115.

The United States Equal Employment Opportunity Commission (the
“Commission” or “EEOC”) filed this action against High Tech Institute, Inc., d/b/a
Anthem College Online (“Defendant” or “Anthem College Online”) to enforce Title
VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991. In the
Complaint, the Commission alleged that Defendant discriminated against Charging
Party Kimberly Patterson and a class of similarly situated women, by subjecting them
to sex harassment by Defendant’s employees, which created a hostile work
environment because of their sex. Defendant denies any liability.

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 Decree. The Parties do not object to the jurisdiction

1 of the Court over this action and waive their rights to a jury trial and the entry of
2 findings of fact and conclusions of law.

3 1. This Decree resolves all claims of the Commission against Defendant,
4 including back pay, compensatory and punitive damages, interest and injunctive relief
5 arising out of the issues in this lawsuit.

6 2. This Decree conforms to the Federal Rules of Civil Procedure and Title
7 VII and is not in derogation of the rights and privileges of any person. The entry of this
8 Consent Decree will further the objectives of Title VII and will be in the best interests
9 of the Commission, the class members, Anthem College Online, and the public.

10 3. This Decree, and any provision herein regarding Anthem College Online,
11 applies to Anthem College Online on-line admissions department and to its officers,
12 agents, employees, successors, and assigns located at 16404 N. Black Canyon
13 Highway, Phoenix, AZ 85053.

14 It is hereby ORDERED, ADJUDGED AND DECREED:

15
16 **INJUNCTION**

17 4. Defendant and its officers, agents, employees, successors, assigns, and all
18 persons in active concert or participation with it, both at the time that this Decree
19 becomes effective and for the duration of this Decree, are permanently enjoined from:
20 (a) subjecting any employee to sexual harassment and (b) retaliating against any
21 employee because he or she (i) opposed discriminatory practices made unlawful by
22 Title VII, (ii) filed a charge or is assisting or participating in the filing of a charge of
23 sexual harassment, or (iii) assisted or participated in an investigation or proceeding
24 brought under Title VII.

25 **MONETARY RELIEF**

26 5. Defendant shall pay the gross sum of \$260,000 (two hundred and sixty
27 thousand dollars). Within forty-five (45) days from the Court's entry of this Consent
28 Decree, Defendant shall pay the settlement amount separately to class members and the

1 addresses supplied by the EEOC by check, cashier's check, or money order in the
2 distribution set forth in Exhibit A. Within three business days of the issuance of the
3 funds, Defendant shall submit a copy of the checks or money orders and all related
4 correspondence to the Regional Attorney of the Commission's Phoenix District Office,
5 Equal Employment Opportunity Commission, 3300 North Central Avenue, Suite 690,
6 Phoenix, Arizona 85012.

7 6. Defendant will not condition the receipt of individual relief on Ms.
8 Patterson or any of the class members' agreement to (a) maintain as confidential the facts
9 and/or allegations underlying his charge and complaint and the terms of this Decree; (b)
10 waive her statutory right to file a charge with any governmental agency for events
11 occurring after the entry of this Consent Decree; or (c) refrain from reapplying for a job
12 with Defendant.

13 7. Defendant shall issue United States Internal Revenue Service Form 1099
14 to Ms. Patterson and each of the class members for the tax year during which payment
15 is made. Money paid to each class member constitutes compensatory damages and
16 Defendant shall make no deductions from the amount.

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18 **OTHER RELIEF**

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20 8. Defendant shall expunge from the personnel files of Ms. Patterson and all
21 class members: (a) all references to the allegations against defendant that formed the
22 basis of this action; (b) all references to participation in this action; and (c) any
23 documents which relate to complaints or investigation of complaints of sexual
24 harassment. Within ten (10) days of the entry of this Consent Decree, Defendant shall
25 also provide a letter of reference, which is attached as Exhibit B, to Ms. Patterson and the
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1 class members, providing dates of employment, title and ending rate of pay and stating
2 that it is defendant's policy in all cases to provide only such limited information.

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4 9. Defendant shall provide Ms. Patterson and all class members with the
5 written letter of regret, attached as Exhibit C, signed and printed on Defendant
6 letterhead. Defendant shall mail this letter of regret directly to Ms. Patterson and the
7 class members within ten (10) business days of the entry of this Consent Decree by the
8 Court.

9 10. Defendant shall institute and carry out policies and practices that help
10 assure a work environment free from sexual harassment and that allow employees to
11 raise concerns or complaints without retaliation about matters, whether alleged,
12 perceived or actual, made unlawful by Title VII. To assist Defendant in its efforts to
13 assure such a work environment, Defendant shall take the actions provided in
14 paragraphs eleven through fifteen of this Decree.

15 **NOTICE**

16 11. Defendant shall post for the duration of this Decree, in a prominent place
17 frequented by its employees at the facility, the Notice, attached as Exhibit D. The
18 Notice shall be posted in English. The Notice shall be the same type, style, and size as
19 set forth in Exhibit D.

20 **TRAINING**

21 12. Defendant shall provide training in English, and other languages as
22 appropriate, on sexual harassment and retaliation. The training shall consist of the
23 following terms:

24 A. Defendant shall provide training to its employees as identified in
25 Paragraph 3, including those with Human Resources responsibility for Defendant's
26 Arizona locations for a period of two (2) years from the date of this Decree, on the issue
27 of sexual harassment and retaliation. During each of the two years, Defendant shall
28 conduct one live training seminar. All of Defendant's employees and supervisors as

1 identified in paragraph 3, both managerial and non-managerial, shall attend the live
2 seminar or a videotaped showing of the live seminar each year. For the duration of this
3 decree, new employees shall view the videotape within thirty days of commencing
4 employment. Defendant may have duplicative videotaped seminars to accommodate
5 staffing needs. Defendant shall be responsible for any additional costs to provide such
6 duplicative seminars.

7 B. The Vice President of Human Resources will conduct the training.
8 Diane Gilmore currently occupies the position of Vice President of Human Resources.
9 The materials used in the presentation will be provided to the Regional Attorney of the
10 Phoenix District Office at the EEOC at the address provided above at least 20 days
11 before the presentation.

12 C. During the first year of the Consent Decree, the training seminars
13 shall be conducted within three months of the entry of this Decree. During the second,
14 year and one half the training seminars shall be conducted between eleven (11) and
15 thirteen (13) months after the completion of the preceding seminar.

16 D. The live training seminars shall be at least sixty minutes, plus
17 additional time for questions and answers. All of Defendant's employees shall register
18 when they attend a training seminar. The registry of attendance shall be retained by
19 Defendant for the duration of this Decree.

20 E. The seminars shall include:

- 21 1. That sex discrimination and retaliation in the hiring, firing, compensation,
22 assignment, or other terms, conditions, or privileges of employment, violates Title VII;
- 23 2. That sexual harassment is a form of sex discrimination;
- 24 3. An explanation of what behaviors may constitute sexual harassment and
25 retaliation;
- 26 4. How to prevent sexual harassment and retaliation;
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1 D. The identification of specific individuals, to Defendant, with their
2 telephone numbers, to whom employees can report the sexual harassment and/or
3 retaliation, including a written statement that the employee may report the sexual
4 harassment and/or retaliation to designated persons outside their chain of management.

5 E. An assurance that Defendant will investigate allegations of sexual
6 harassment and retaliation promptly, fairly, reasonably and effectively, using
7 appropriate investigators and that appropriate corrective action will be taken.

8 F. An assurance that sexual harassment and retaliation by all persons,
9 including management officials, supervisors, salespersons, vendors, suppliers, third
10 parties, and customers, is prohibited and will not be tolerated.

11 G. A description of the consequences, up to and including termination
12 that will be imposed upon violators of the policy.

13 H. A promise of maximum feasible confidentiality for persons who
14 believe that they have been subjected to retaliation.

15 I. An assurance of non-retaliation for persons and witnesses who
16 report to Defendant in good faith that they believe they have been subjected to unlawful
17 discrimination.

18 14. These policies shall be distributed to all of Defendant's employees within
19 one hundred and twenty (120) days of the entry of this Decree.

20 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

21 15. Defendant shall report in writing and in affidavit form to the Regional
22 Attorney of the Commission's Phoenix District Office, at the address provided in
23 paragraph five above, beginning six months from the date of the entry of this Decree,
24 and thereafter every year for the duration of the Decree, the following information:

25 A. Any changes, modifications, revocations, or revisions to its
26 policies and procedures which concern or affect the subjects of unlawful sexual
27 harassment and retaliation.
28

1 B. The name of any individual who has lodged a complaint that has
2 come to the attention of Human Resources, of sexual harassment, against any of
3 Defendant's management, where Human Resources determines a violation of its sexual
4 harassment policy occurred. The nature of the complaint, investigatory efforts made by
5 defendant, and the corrective action taken, if any, shall also be specified

6 C. Confirmation that the registries of persons attending the live
7 training seminars required in paragraph twelve of this Decree are within its possession
8 and available to the Commission at its request.

9 D. Confirmation that (1) the Notice required in paragraph eleven of
10 this Decree was posted, and the location(s) where it was posted; (2) the policies
11 required in paragraph thirteen were distributed to each current and new employee of
12 Defendant, and posted; (3) the expungement from Ms. Patterson's personnel files
13 required in paragraph eight of this Decree took place, the date of the expungement, and
14 the specific documents expunged.

15 16 **COSTS AND DURATION**

17 16. Each Party shall bear its costs and attorney's fees incurred as a result of
18 this action through the filing of this Decree.

19 17. The duration of this Decree shall be twenty-four (24) months from its
20 entry. This Court shall retain jurisdiction over this action for the duration of the
21 Decree, during which the Commission may petition this Court for compliance with this
22 Decree. Should the Court determine that Defendant has not complied with this Decree,
23 the Court may order appropriate relief, including extension of this Decree for such
24 period as may be necessary to remedy its non-compliance, an award of attorney's fees
25 and costs, and fines for contempt of court.

26 18. In the event that the commission believes that Defendant has failed to
27 comply with any provisions of this Consent Decree, it shall notify Defendant in writing
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1 of the non-compliance and afford Defendant twenty days after service of the notice to
2 remedy the non-compliance. Said Notice has be sent via fax and U.S. mail to
3 Defendant's Vice President of Human Resources at 16404 N. Black Canyon Highway,
4 Phoenix AZ (Fax 602-926-8775) and to Kris Culbertson or Mark Ogden at 2425 E.
5 Camelback, Ste. 900, Phoenix AZ 85016. (Fax 602-957-1801)

6 19. If Defendant has not remedied the non-compliance in twenty (20) days
7 after service of the notice, the EEOC may petition this court to enforce the terms of the
8 Decree.

9 20. Absent extension, this Decree shall expire by its own terms at the end of
10 twenty-four (24) months from the date of entry without further action by the Parties.

11 21. The parties shall submit a joint status report every six months, with the
12 first report to be filed six months from the date of this judgment.

13 Dated this 17th day of May, 2011.

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Roslyn O. Silver
Chief United States District Judge