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EEOC and Lisa Tesoro, et al. v. Simat, Helliesen & Eichner, Inc., et al.

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EEOC and Lisa Tesoro, et al. v. Simat, Helliesen & Eichner, Inc., et al.

Keywords

EEOC and Lisa Tesoro, et al., Simat, Helliesen & Eichner, Inc., et al., 97 Civ. 7168 (KMW), Consent Decree, Disparate Treatment, Sex, Female, Service, Employment Law, Title VII

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK**

-----X
EQUAL EMPLOYMENT OPPORTUNITY :
COMMISSION, :
 :
Plaintiff, : **Civil Action No.**
 : **97 Civ. 7168(KMW)**
v. :
 :
SIMAT, HELLIESEN & EICHNER, INC :
REED TELEPUBLISHING LTD., :
 :
Defendants. :
-----X

LISA TESORO, ROSEMARY BARENZ, :
TULINDA LARSEN, DONNA KEATING :
and BRENDA BRADT, on behalf of :
themselves and all others similarly situated, :
 :
Plaintiffs, : **Civil Action No.**
 : **97 Civ. 7176(KMW)**
v. :
 :
SIMAT, HELLIESEN & EICHNER, INC., :
REED TELEPUBLISHING LTD., and :
DAVID TREITEL. :
 :
Defendants. :
-----X

CONSENT DECREE

This cause of action was initiated on September 24, 1997 by the Plaintiff, the Equal Employment Opportunity Commission (hereinafter "E.E.O.C."), an agency of the United States Government, alleging that Simat, Helliesen & Eichner, Inc. ("SH&E) and Reed Elsevier Inc. (hereinafter "Reed" and jointly "Defendants") discriminated against claimants Lisa Tesoro, Rosemary Barenz, Tulinda Larsen, Donna Keating and other similarly situated

individuals on the basis of their sex , in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-2(a).¹

This Decree is being issued with the consent of the parties and does not constitute and shall not be deemed to be either an adjudication or finding by this Court or an admission by any party as to the merits, validity or accuracy of any of the allegations, claims or defenses of any party in this case. By entering into this Decree, Defendants do not admit or concede, expressly or impliedly, and in fact deny, that they have in any way violated Title VII (42 U.S.C. § 2000e et seq.), the Equal Pay Act of 1963 (29 U.S.C. § 206(d)), the New York State Human Rights Law (New York Executive Law § 291 et seq.), the New York City Human Rights Law (N.Y.C. Admin. Code § 8 et seq.), the common law of any jurisdiction or any other federal, state or local law, statute, ordinance, regulation, rule or Executive Order, or any obligation or duty arising at law or in equity.

Both SH&E and Reed specifically deny any wrongdoing or liability in this action, or as to claimants Barenz, Keating, Larsen and Tesoro. Defendants further contend that they have, at all times, treated their female employees, including claimants Barenz, Keating, Larsen and Tesoro, fairly and equitably in all terms, conditions and privileges of employment, including, but not limited to, compensation, promotions and bonuses, and that they have maintained a lawful work environment at all times.

The E.E.O.C. and Defendants desire to amicably resolve and settle all disputes and matters now in controversy between them without further litigation. In evaluating the

¹ The EEOC contended that Brenda Bradt was one of the similarly situated individuals. The EEOC and SH&E entered into a separate consent decree with respect to Ms. Bradt, which was filed with this Court on June 10, 2002. Ms. Bradt is not a party, or a claimant, to the action that is the subject of this Consent Decree.

proposed settlement, the parties have carefully considered, *inter alia*: the claims asserted by the E.E.O.C. and claimants Barenz, Keating, Larsen and Tesoro; the defenses asserted by and available to Defendants; the risks, costs, expenses and uncertainties of complex litigation. Therefore, the parties stipulate and consent to the entry of this Decree as final and binding between SH&E, Reed and the E.E.O.C., whom are the signatories hereto, and their successors or assigns.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, it is agreed and IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The parties agree that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative prerequisites have been met.

2. This Consent Decree is final and binding between the signatory parties and resolves all issues that were alleged or could have been alleged in the Complaint or at any time during the litigation up to and including the date of the execution of this Consent Decree herein as well as the specific claims raised in E.E.O.C. charge numbers 160950928, 160952427, 160970025 and 160970026 and those raised in the Complaint. . The terms of this Agreement represent the full and complete agreement of the parties. This Decree in no way affects the E.E.O.C.'s right to process any future charges or pending charges that are independent from, and could not have been brought in, this litigation that may be filed against Defendants in accordance with standard E.E.O.C. procedures, and to commence civil actions on any such charges.

3. No party shall contest the validity of this Decree nor the jurisdiction of the federal district court to enforce this Decree and its terms or the right of any party to bring an enforcement suit upon breach of any of the terms of this Decree by the other party. The E.E.O.C., upon proper notice to defendants, shall be authorized to seek compliance with the Decree in the United States District Court.

4. The term SH&E shall include SH&E, its officers, owners, managers, successors, and agents. The term Reed shall include Reed, its officers, owners, managers, successors, and agents. The terms SH&E and Reed shall further include only the continental United States offices of SH&E and Reed Elsevier Inc., respectively.

5. In settlement of this dispute, Reed, on behalf of the defendants, shall pay claimants a total sum of \$2,300,000, which sum includes payment of claimants' attorneys' fees and costs.

6. Defendants will not discriminate against any individual because of the individual's sex or subject any employee to sexual harassment. Defendants further agree to take appropriate actions and adopt appropriate measures to ensure compliance with Title VII and will not to retaliate against any individual, including claimants, who has filed a charge, given testimony or assistance in connection with the investigation of these charges or these actions, or asserted his or her rights under Title VII. In furtherance of this commitment, within 10 days after the date of entry of this Decree, Defendants shall conspicuously post and maintain, at offices located in Manhattan and Boston, the Notice on E.E.O.C. letterhead, appended hereto as Exhibit "A", in a prominent place where employee notices are posted. This Notice shall remain posted for two years after the date of entry of this Consent Decree.

7. For the duration of this Decree, on a bi-annual basis beginning six months after the effective date of the Decree, SH&E shall provide a written report to the Legal Unit of E.E.O.C., New York District Office, with information on written complaints of sexual

harassment and retaliation for reporting sexual harassment from employees which were received during the preceding six months. SH&E shall provide to the Legal Unit of E.E.O.C., New York District Office, the name of the complainant, the allegations, and the results of any investigation, and remedial action, if any, taken by SH&E. All such information provided by SH&E on any such complaint shall be held in strict confidence by the E.E.O.C. as required pursuant to 42 U.S.C. 2000e-8(e) and 29 C.F.R. § 1601.22, unless litigation is subsequently commenced on that complaint.

8. SH&E and Reed shall each provide a total of 3 hours of sexual harassment training for all U.S. management personnel. Such training shall include a discussion of SH&E's and Reed's policies on sexual harassment and retaliation and its internal procedure for addressing sexual harassment complaints. The training will be completed within one year of the execution of this Decree. SH&E and Reed will provide the E.E.O.C. proof of completion within ten (10) days of the completion of the training program.²

9. David Treitel, Chairman and Chief Executive Officer of SH&E, shall be required to attend a four-hour training program regarding sexual harassment and retaliation. The training will be completed within one year of the execution of this Decree. This training program is independent of the program mentioned in Paragraph 8, above. Mr. Treitel shall be required to attend both programs.

10. SH&E and Reed shall each maintain and adhere to its current policy concerning sexual harassment and discrimination, which includes the following terms: 1) employees who believe that they have been subject to unlawful harassment or discrimination have a variety of individuals to whom they can complain, 2) employees shall not be subject

² SH&E training entitled "SH&E Sexual Harassment EEO Training" conducted on April 19, 2002, April 25, 2002, May 9, 2002, May 16, 2002 and October 25, 2002 for employees in Manhattan and Boston, shall constitute 1 ½ hours toward the three hour requirement. Reed training entitled "Equal Employment Opportunity", "Identify, Stop and Prevent", "Is It or Isn't It" and "Sexual Harassment: It can Happen Here" conducted on various dates in 2002 throughout Reed management shall constitute 1 ½ hours toward the three-hour requirement.

to retaliation in any form for making a complaint of discrimination or harassment, for supporting a complaint of discrimination or harassment, or for assisting in the investigation of a complaint of harassment or discrimination, 3) all complaints of harassment or discrimination shall be thoroughly investigated and remain confidential to the extent possible, and 4) SH&E and Reed will determine in good faith the remedial action which may be appropriate in response to any complaint of discrimination or harassment.

If either defendant wishes to modify its policy during the term of the Decree, it shall submit the proposed revised policy to Nora Curtin, Esq. of the Legal Unit of the New York District Office of the E.E.O.C. for review and approval. The E.E.O.C. will provide, in writing, its approval (or changes) within twenty (20) business days. If the E.E.O.C. does not respond within the twenty (20) business days, the E.E.O.C. will be deemed to have approved of the proposed policy modification.

SH&E and Reed shall re-issue its policy concerning sexual harassment containing these terms to all employees within forty-five (45) days of the entry of this Consent Decree. For purposes of compliance with this paragraph, Reed shall re-issue its policy to its Manhattan and Boston employees.

11. SH&E commits that it will make reasonable efforts to actively seek qualified female candidates for professional positions.

12. The E.E.O.C., SH&E and Reed agree to bear their own attorney's fees and costs in connection with this case.

13. This Decree will remain in effect for a period of two (2) years.

Dated: May , 2002

Dated: May , 2002

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

SIMAT, HELLIESEN & EICHNER,

By:

REED ELSEVIER INC.

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SO ORDERED.

Date:

Hon. Kimba M. Wood
United States District Court Judge