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## Equal Employment Opportunity Commission v. Keane, Inc.,

Judge Reginald C. Lindsay

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## Equal Employment Opportunity Commission v. Keane, Inc.,

### Keywords

EEOC, Keane Inc., 00-11989 RCL, Consent Decree, Disparate Treatment, Race, Black, Information, Technology, Employment Law, Title VII

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DOCKETED

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

MICHAEL RANDOLPH,

Plaintiff-Intervenor,

v.

KEANE, INC.,

Defendant.

Civil Action No. <sup>00</sup>01-11989 RCL

CONSENT DECREE

This action was filed on September 28, 2001, by Plaintiff, the Equal Employment Opportunity Commission (hereinafter the "EEOC"), an agency of the United States Government, alleging that Keane, Inc. (hereinafter "Keane") discriminated against Intervenor-Plaintiff, Michael Randolph (hereinafter "Intervenor-Plaintiff"), and other similarly situated individuals 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), on the basis of their race, Black / African American. Keane denied, and continues to deny, these allegations.

The EEOC, Intervenor-Plaintiff and Keane desire to settle this action, and therefore do hereby stipulate and consent to the entry of this Decree as final and binding between Keane, Intervenor-Plaintiff and the EEOC, whom are the signatories hereto, and their successors or assigns.

Defendant, Intervenor-Plaintiff and the EEOC (hereinafter "the parties") have agreed that this Decree is being entered into without Findings of Fact and Conclusions of Law having been made and entered by the Court.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and it is therefore ORDERED, ADJUDGED AND DECREED that:

1. This Decree resolves all issues raised in EEOC Charge Number 110992938, and the Complaint filed by the EEOC, Civil Action No. 001-11989 RCL, specifically as to the issues raised and discovery completed for the following Keane facilities: (1) Blue Bell, PA, (2) Rockville, MD, (3) Albany, NY, and (4) Los Angeles, CA. In addition, this Decree also resolves the Complaint filed by Intervenor-Plaintiff in this case. This Decree in no way affects the EEOC's right to process any pending or future charges that may be filed against Defendant in accordance with standard EEOC procedures, and to commence civil actions on any such charges unrelated to those referenced above.

2. The parties agree and the Court finds 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. No party shall contest the validity of this Decree, or the jurisdiction of the federal district court to enforce this Decree and its terms.

3. This Decree is being issued with the consent of the parties and does not constitute an adjudication or finding by this Court on the merits of the allegations of the Complaint.

Nothing contained in this Decree shall be construed as an admission of liability on the part of Defendants, who have denied and continue to deny the allegations of the Complaint asserting race discrimination - including harassment and disparate treatment - related retaliation and

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constructive discharge under Title VII.

4. Keane and its managers, officers, agents, successors, and assigns, agree that they will not discriminate against any individual because of the individual's race, subject Black/African American employees to differential treatment regarding the terms and conditions of employment, engage in racial harassment toward any employee, or engage in related retaliation or constructive discharge against any individual for asserting her or his rights under Title VII. Keane and its agents further agree not to retaliate against any individual who has participated in this matter in some way, given testimony in this matter or asserted her or his rights under Title VII, including, but not limited to, Intervenor-Plaintiff. Keane shall be entitled to take remedial action to correct alleged unlawful discrimination without violating this provision.

A. MONETARY RELIEF

5. In settlement of this dispute, Keane shall pay a total of \$375,000 as damages in this action to the Intervenor-Plaintiff and claimants, Cynthia Lofton, Selange Roberts and Priscilla Berry. Such payment is in consideration for Intervenor-Plaintiff and each claimant (collectively, "Claimants") releasing any and all claims brought by the EEOC in this action or which could have been brought by the EEOC in this action as a result of each Claimant's employment with and/or separation of employment from Keane, including all claims of discrimination, harassment, retaliation, and constructive discharge (collectively, "Claims"). The payment amounts set forth below shall be complete and unconditional payment, settlement, accord and/or satisfaction with respect to all such Claims. Payments shall be allocated as follows:

- a) Payment, in the form of a check made payable to Michael Randolph, in the

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sum of \$58,333.00 for back pay. This payment shall be subject to all applicable federal, state, and/or local withholding and/or payroll taxes. Keane shall issue a W-2 Form in connection with this payment.

b) Payment, in the form of a check made payable to Michael Randolph, in the sum of \$175,000.00 for emotional distress damages. Keane shall issue an IRS Form 1099 in connection with this payment.

c) Payment, in the form of a check made payable to Jeffrey Martin, Esq. (Attorney for Michael Randolph), in the sum of \$116,667.00 as payment of Randolph's attorney's fees. Keane will issue an IRS Form 1099 in connection with this payment. Mr. Martin's taxpayer identification number is 510371109.

d) Payment, in the form of a check made payable to Cynthia Lofton, in the sum of \$10,000.00 for back pay. This payment shall be subject to all applicable federal, state, and/or local withholding and/or payroll taxes. Keane shall issue a W-2 Form in connection with this payment.

e) Payment, in the form of a check made payable to Selange Roberts, in the sum of \$7500.00 for back pay. This payment shall be subject to all applicable federal, state, and/or local withholding and/or payroll taxes. Keane shall issue a W-2 Form in connection with this payment.

f) Payment, in the form of a check made payable to Priscilla Berry, in the sum of \$7500.00 for back pay. This payment shall be subject to all applicable federal, state, and/or local withholding and/or payroll taxes. Keane shall issue a W-2 Form in connection with this payment.

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6. Keane shall make such payments within thirty (30) days after receiving notice of the Court's entry of this Consent Decree, by delivering to counsel for Intervenor-Plaintiff and directly to claimants, Cynthia Lofton, Selange Roberts, and Priscilla Berry, by United States Postal Service, certified mail receipt, certified checks in the amounts set forth above and 1099 forms, as applicable. Additionally, Keane shall pay, on behalf of all parties, the sum of \$2656.00 to Diane Cochran, Esq. for mediation services.

7. Keane shall send copies of the checks, 1099 forms, and return receipts to Arnold Lizana, Trial Attorney, EEOC, JFK Federal Building, Government Center, 4th Floor, Room 475, Boston, MA 02203, simultaneous to Keane's delivery to the Intervenor-Plaintiff and claimants.

B. NOTICE AND POSTING

8. No later than 10 days after receiving notice of the Court's entry of this Consent Decree, Keane shall conspicuously post on the employee bulletin board in its offices in Bluebell, PA (Philadelphia) and Rockville, MD (Washington/Baltimore Commercial Unit), a copy of a remedial notice, printed on its letterhead and signed by Keane's Equal Employment Opportunity Officer, in the form attached hereto as Exhibit A. This notice shall be posted for a period of one (1) year in both offices.

C. EQUAL EMPLOYMENT OPPORTUNITY OFFICER

9. EEO OFFICER: Keane shall designate an individual at its Corporate facility to serve as its Equal Employment Opportunity Officer (hereinafter "EEO Officer") no more than two (2) months after the entry of this Consent Decree. Once selected, Keane will advise the EEOC in writing of the identity of this individual and provide an updated resume for this individual to the EEOC. The EEO Officer's duties shall include, but are not limited to, general

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responsibility for the review, revision, enforcement, implementation, and distribution of Keane's EEO policies and procedures nationwide, and responsibility for receiving and investigating complaints of discrimination. The EEO Officer shall also have responsibility for ensuring that an e-mail address is established for employees to lodge complaints of discrimination directly to his/her attention and will be charged with the creation of a centralized database of all reported complaints to be kept and monitored by the EEO Officer for any repeat offenders or other patterns needing prompt remediation.

10. Branch EEO Representatives: The EEO Officer will designate one person in each of Keane's branch offices to serve as an EEO Representative for any and all EEO matters arising in that particular office. The EEO Officer shall designate the EEO Representatives no later than three (3) months following the entry of this Decree. This designee will have a dotted line reporting relationship to the EEO Officer who shall be located in Keane's corporate offices. The EEO Officer shall ensure that Keane EEO Representatives receive proper training, in accordance with paragraph F.19, below. Where a complaint of discrimination is reported to one of the EEO Representatives in a Keane branch office, immediate notice shall be given to the EEO Officer. The EEO Officer shall be accessible to said EEO Representative for guidance, suggestions and leadership in the branch office's handling of any discrimination complaints as necessary.

11. Keane will advise its employees in each branch office of the identity of the individual responsible for each respective office and will agree to provide immediate notice in the future to any branch office where the EEO Representative for that office has changed.

D. OUTSIDE CONSULTANT

12. Keane shall retain an Outside Consultant to work with the Company and

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specifically, with the EEO Officer, to review, revise, and create, as appropriate, Keane's EEO policies, procedures and protocols, including its complaint investigation and remediation procedures. The Outside Consultant shall also assist Keane and the EEO Officer in the review and implementation of Keane's EEO-related training. Once selected, Keane will advise the EEOC in writing of the identity of this individual and provide an updated resume for this individual to the EEOC. In accomplishing his/her responsibilities, the Outside Consultant will consider, at minimum, the following: (1) whether Keane's EEO policies are clear, accurate and effective in communicating to employees the prohibitions against unlawful discrimination; (2) whether such policies are being effectively disseminated to employees; (3) whether the policies make clear that employees making complaints or cooperating in an investigation shall be protected against retaliation and that efforts will be made to ensure retaliation does not occur; (4) whether the complaint procedure is clearly described and easily accessible to employees; (5) whether the EEO policies provide guidance to employees on unlawful discrimination which may occur while the employee is on a client site; (6) whether Keane has made its clients aware of its EEO policies and procedures; and (7) whether training of Keane employees on EEO matters is sufficient and whether the training program is implemented efficiently and effectively. Once the Outside Consultant and EEO Officer have contemplated these and other related matters, both shall submit their recommendations in writing to Keane. Keane will review the recommendations and implement appropriate changes within six (6) months from the signing of this Decree.

E. WRITTEN POLICIES

13. With the recommendations of the Outside Consultant and with the input of its

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EEO Officer, Keane shall appropriately rename and revise its "Productive Workplace Policy" as a general anti-discrimination/EEO policy and ensure it contains, at minimum, the following: (1) an explanation of prohibited conduct; (2) the assurance that Keane will not retaliate against employees who make complaints of discrimination, who oppose practices they consider to be unlawfully discriminatory, who participate in protected activity or who provide information related to complaints of discrimination; (3) a clearly described complaint process that provides accessible avenues of complaint, including a number of choices of individuals to whom complaints can be made both at the branch and corporate level and a centralized e-mail address to be received by the EEO Officer for employees to make complaints; (4) the assurance that the employer will accept any and all complaints from employees who wish to file complaints internally with the Company; (5) the assurance that the employer will not publicize unnecessarily the subject matter of the complaints or the identity of complainants; (6) a complaint process that provides a prompt, thorough, and impartial investigation; (7) the assurance that Keane will take prompt and appropriate corrective action when it determines that discrimination has occurred; and (8) an explanation that the policy applies to all employees, whether working at a Keane office, a client site or elsewhere. This revised policy will specifically apply to all forms of discrimination protected under Federal law, not just sexual harassment. Keane also agrees that this revised policy will be included in management or employee handbooks distributed in the ordinary course of business to its employees.

14. These new or revised policies will be submitted to Arnold Lizana, Trial Attorney, EEOC, Boston Area Office, JFK Federal Bldg. Room 475, Boston, MA 02203-0506, for evaluation of substantial compliance and approval within six (6) months after receiving notice of

the Court's entry of this Consent Decree. EEOC will then notify Keane within thirty (30) days as to whether such policies are acceptable. In the event that the proposed policies are not acceptable to the EEOC, the parties will confer in good faith and attempt to reach an agreement no later than 45 days after receiving the EEOC's objection. Approval will not be unreasonably withheld by the EEOC.

15. Keane shall distribute and post these policies and include them in any relevant policy or employee manuals kept within one (1) month of finalizing said policies. The policies shall be posted in a conspicuous and accessible place at all branch offices and printed in a font that is easily legible (at least 14 point font).

F. TRAINING

16. All Keane management at the Director level and above shall be required to attend an in-person training program of at least four (4) hours regarding equal employment opportunity rights and responsibilities under state and federal law, including race discrimination, harassment, and retaliation. This training program shall also include diversity training and shall emphasize supervisor reporting responsibilities and the consequences for non-reporting. Management employees shall also receive training on the new and revised policies implemented by Keane set forth in Section E above.

17. All Keane supervisors or managers below the Director level shall be required to attend a training program of at least three (3) hours regarding equal employment opportunity rights and responsibilities under state and federal law, including race discrimination, harassment and retaliation. This training program shall also include diversity training and shall emphasize supervisor reporting responsibilities and the consequences for non-reporting. These employees

shall also receive training on the new and revised policies implemented by Keane set forth in Section E above. Training for supervisors or managers below the Director level shall be conducted either in person, by video, or electronically.

18. All Keane consultants and other non-managerial employees shall be required to attend a training program of at least one (1) hour regarding equal employment opportunity rights and responsibilities under state and federal law, including race discrimination, harassment and retaliation. This training program shall also include diversity training. Consultant and other non-managerial employees shall also be advised of the new and revised policies implemented by Keane set forth in Section E above. Training for consultants and other non-managerial employees shall be conducted either in person, by video or electronically.

19. Any and all employees designated as EEO Representatives in the branch offices shall receive training required of Director level management as described above. All employees designated to investigate employee complaints of discrimination shall receive at least four (4) additional hours of training regarding proper investigative procedures and techniques.

20. Six (6) months after receiving notice of the Court's entry of this Decree, Keane shall submit a draft curriculum and materials to be distributed at such training to the EEOC. EEOC will then notify Keane within thirty (30) days as to whether its proposal is acceptable. In the event that the proposed course is not acceptable to the EEOC, the parties will confer in good faith and attempt to reach an agreement no later than 45 days after receiving the EEOC's objection. Approval will not be unreasonably withheld by the EEOC.

G. REFERENCES

21. Keane, if asked to provide a reference check for the Intervenor-Plaintiff or

claimants will handle such request in accordance with its normal policy and, thereby, only provide the former employee's dates of employment and the position held.

H. MONITORING

22. The EEOC has the right to monitor and review compliance with this Consent Decree. Keane shall designate a liaison in order to facilitate the EEOC's right to monitor and review compliance with this Decree within one (1) month from its entry. Keane shall provide the name of the liaison to Arnold Lizana, Trial Attorney, EEOC, JFK Federal Building, Government Center, 4<sup>th</sup> Floor, Room 475, Boston, MA 02203. Accordingly:

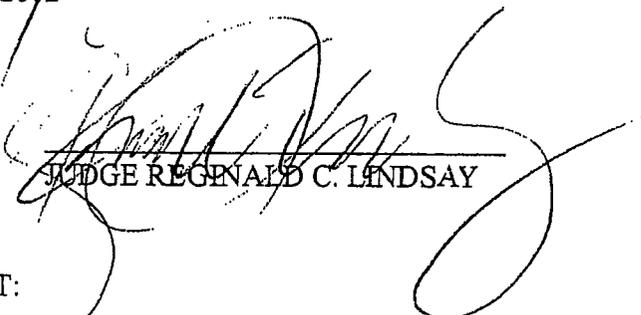
a) On or before six (6) months from the date the Court enters this Consent Decree, Keane shall submit written proof via affidavit to the EEOC that it has complied with the above requirements set forth in sections A-E above, and Section F with respect to the Philadelphia and Washington/Baltimore Commercial Unit branch offices, and that the notice required by this Decree was conspicuously posted in the Philadelphia and Washington/Baltimore Commercial Unit branch offices.

b) Nothing in this Decree shall be construed to preclude any party from enforcing this Decree in the event that any party fails to perform the promises and representations contained herein.

23. This Decree will remain in effect until one (1) year from entry of this Decree.

SO ORDERED, ADJUDGED AND DECREED.

Signed this 16 day of April, 2002

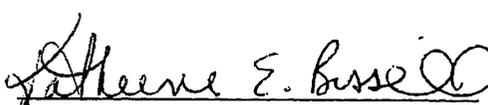


JUDGE REGINALD C. LINDSAY

APPROVED IN FORM AND CONTENT:

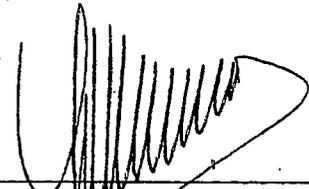
By Plaintiff, EEOC:

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION



KATHERINE E. BISSELL

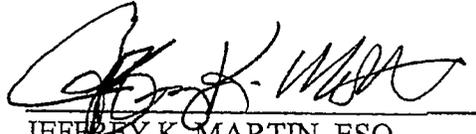
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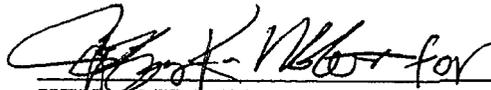
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By Plaintiff-Intervenor  
Michael Randolph:

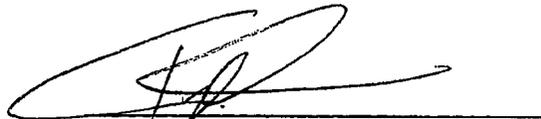


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