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# EEOC v. Pass and Seymour, Inc. and Kennmark Group, Ltd. (Consent Decree as to KENNMARK GROUP)

Judge William Wayne Justice

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EEOC v. Pass and Seymour, Inc. and Kennmark Group, Ltd. (Consent Decree as to KENMARK GROUP)

**Keywords**

EEOC, Kennmark Group, Ltd, SA-04-CA-0573-WWJ, Disparate Treatment, Hiring, Manufacturing, Sex, Male, Employment Law, Title VII

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

<b>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,</b>	§	
	§	
	§	
<b>Plaintiff,</b>	§	
	§	
v.	§	<b>Civil Action No. SA-04-CA-0573-WWJ</b>
	§	
<b>PASS &amp; SEYMOUR, INC. AND KENNMARK GROUP, LTD.,</b>	§	
	§	
	§	
<b>Defendants.</b>	§	
<hr style="width:40%; margin-left:0"/>	§	

**CONSENT DECREE AS TO DEFENDANT KENNMARK GROUP, LTD.**

A. The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission (“EEOC”), and Defendant, Kennmark Group, Ltd.. (“Kennmark”). The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex, male, and to provide appropriate relief to a class of males who were adversely affected by these practices.

B. The EEOC and Kennmark desire to settle this action, without the risks, uncertainties and expenses of continued litigation, pursuant to the terms delineated in this Consent Decree. By entering into this Consent Decree, Kennmark makes no admission of liability.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the EEOC’s filing of this action have been met. The parties stipulate to the Court’s jurisdiction.

2. This Consent Decree resolves all issues raised by the EEOC in the present lawsuit with regard to Kennmark's recruiting, screening, interviewing, rejecting, selecting and/or hiring individuals for Assembler positions between January 1, 1997, and the date this Consent Decree is entered by the Court.

3. Nothing contained in this Consent Decree will prohibit the EEOC from accepting and/or processing charges of discrimination filed by or on behalf of any individuals against Kennmark.

4. The duration of this Decree shall be five (5) years from the date of entry by the Court and in any case shall not expire until Kennmark makes its last payment as required by Paragraph 9 of this Decree. This Court shall retain jurisdiction of the EEOC's claims and cause of action asserted against Kennmark during the period of this Consent Decree.

5. During the term of this Consent Decree, Kennmark shall be enjoined from engaging in gender discrimination with regard to recruiting, interviewing, selecting, rejecting, referring and/or hiring individuals to fill any position.

6. Kennmark shall post the notice set forth in Exhibit "1" ("Notice") to this Consent Decree regarding its policies, practices, and intent to comply with Title VII where Kennmark customarily posts employee notices at its facility. The Notice shall be posted within ten (10) business days of the entry of this Consent Decree, and shall remain posted for the duration of this Consent Decree.

7. During the term of this Consent Decree, Kennmark shall adopt a statement reflecting its commitment to maintaining a referral and hiring program that does not discriminate on the basis of gender.

8. Within ninety (90) of the entry of this Consent Decree, Christopher J. McKinney, of MCKINNEY & WEBSTER, P.C. ("Kennmark's legal counsel"), shall provide four (4) hours of

Equal Employment Opportunity training to Kennmark Human Resources and other management employees (hereinafter, collectively, the “Management Employees”) who are involved in the recruiting, screening, interviewing, selecting, rejecting, referring and/or hiring of individuals for any position. The training will include information regarding Title VII’s prohibitions against discrimination on the basis of gender, including performance based on stereotypical notions of gender-related job performance, and will reaffirm Kennmark’s commitment to non-discriminatory hiring. Kennmark’s legal counsel will conduct similar training during each year of this Consent Decree for those Management Employees (i) hired, transferred or promoted during the preceding twelve (12) months into positions responsible for the screening, interviewing, selecting, rejecting, referring and/or hiring of individuals for any position, and (ii) who have not received the training during the term of this Consent Decree. Within ten (10) days after the initial and each annual training program, Kennmark shall provide the EEOC with written confirmation that the training has been completed and a copy of the training syllabus and materials. Kennmark shall provide a list of individuals, identified by name and title/position, who attended each training program and the date of their attendance.

9. Beginning July 1, 2005, and monthly thereafter (on or before the first of each month) for a total of 72 months ending June 1, 2011, Kennmark shall make a payment by check, either directly or on its behalf, in the amount of \$348.00 (THREE HUNDRED FORTY- EIGHT DOLLARS AND NO/CENTS), and shall send it as a donation, to the Equal Rights Advocates, 1663 Mission Street, Suite 250, San Francisco, CA 94103 for a total payment over the 72-month period of \$25,056.00 (TWENTY-FIVE THOUSAND FIFTY-SIX DOLLARS AND NO/CENTS). A copy of each check and any accompanying transmittal documents shall be forwarded to the EEOC to the attention of Robert B. Harwin, Regional Attorney, 5410 Fredericksburg Rd., Suite 200, San Antonio, Texas 78229.

10. Nothing in this Consent Decree is intended to confer upon any person or entity other than the EEOC the right to seek enforcement of this Consent Decree and/or of any of the terms contained herein.

11. All documents required to be forwarded to the parties or their counsel shall be mailed, delivered or faxed to counsel at the following addresses:

TO THE EEOC:

Robert B. Harwin, Regional Attorney  
Equal Employment Opportunity Commission  
San Antonio District Office  
5410 Fredericksburg Road, Suite 200  
San Antonio, Texas 78229-3555  
Telephone: (210) 281-7643  
Facsimile: (210) 281-7669

TO THE KENMARK GROUP:

Kenmark Group  
Attn: Legal Counsel  
121 Interpark  
Suite 200  
San Antonio, TX 78216

12. The parties to this Consent Decree shall bear their own costs and attorney's fees incurred in this action as of the date of this Consent Decree. The parties agree that, pursuant to Section 706(k) of Title VII, 42 U.S.C. section 2000e-5(k), there is no "prevailing party" in this action or proceeding.

The Clerk shall furnish a copy hereof to each attorney of record.

SO ORDERED.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
WILLIAM WAYNE JUSTICE  
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

ERIC S. DREIBAND  
General Counsel

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

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**ATTORNEY FOR DEFENDANT  
KENNMARK GROUP, LTD.**

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EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
San Antonio District Office  
5410 Fredericksburg Road, Suite 200  
San Antonio, Texas 78229-3555  
Telephone: (210) 281-7613  
Facsimile: (210) 281-7669

**ATTORNEYS FOR PLAINTIFF**

## Exhibit 1

The Kennmark Group, Ltd., is committed to hiring and referring applicants for employment without regard to their sex, race, color, religion, age, national origin, or disability. Kennmark will not tolerate discrimination which violates state or federal laws or local ordinances, including failing to hire individuals on account of their sex, race, color, creed/religion, age, national origin, or disability.

Kennmark in particular will not tolerate gender discrimination in hiring such as for example discriminatorily preferring women and excluding men in hiring for any position.

If any employee believes he or she has been discriminated against, the employee should immediately notify his/her supervisor or manager. If the complaint involves someone in the employee's direct line of supervision, the employee is encouraged to speak directly with the Human Resources Manager. Employees may also contact the Equal Employment Opportunity Commission at (210) 281-7600 or 1-800-669-4000 (TTY: 1-800-669-6820).

Kennmark will take appropriate corrective action, up to and including termination, based on the circumstances involved, against any employee who violates Kennmark's policies against discrimination.