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EEOC v. South Loop Club

Judge Charles P. Kocoras

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EEOC v. South Loop Club

Keywords

EEOC, South Loop Club, 12-CV-07677, Consent Decree, Retaliation, Sexual Harrassment, Constructive Discharge, Termination, Sex, Female, Hospitality, Employment Law, Title VII

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
Plaintiff,)
)
ABIGAIL GOSS, SHANNON FLYNN,)
IRIS SPIVAK, AND LISA WAGMAN,)
Plaintiff Intervenors)
v.)
)
SOUTH LOOP CLUB,)
Defendant.)
_____)**

Case No. 12-CV-07677

**Judge Charles P. Kocoras
Magistrate Judge Jeffrey T. Gilbert**

CONSENT DECREE

THE LITIGATION

1. On September 26, 2012, Plaintiff United States Equal Employment Opportunity Commission (the "EEOC" or "Commission") filed its Complaint in this action, alleging that Defendant South Loop Club, Inc. ("Defendant") violated Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991 by discriminating against Charging Parties Abigail Goss ("Goss"), Shannon Flynn ("Flynn"), Iris Spivak ("Spivak"), and Lisa Wagman ("Wagman") and a class of female employees by: (a) subjecting them to harassment because of their sex; (b) retaliating against them, including but not limited to by terminating their employment for having opposed and made complaints about the hostile work environment; and (c) constructively discharging them as a result of the sexual harassment.

2. On October 7, 2012, Goss, Flynn, Spivak, and Wagman (collectively, "Plaintiff-Intervenors") moved to intervene and filed a Complaint. (The Complaints filed by the EEOC and Plaintiff-Intervenors are referred to together as the "Complaints.")

3. As a result of having engaged in comprehensive settlement negotiations, EEOC, Plaintiff- Intervenors, and Defendant have agreed that this action should be finally resolved by entry of this Consent Decree. This Decree fully and finally resolves any and all issues and claims set forth in, or arising out of, the Complaints filed in this action.

FINDINGS

4. Having examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

- A. This Court has jurisdiction of the subject matter of this action and of the parties to this case.
- B. The terms of this Decree are adequate, reasonable, equitable, and just, and the rights of the parties, class members, and the public interest are adequately protected by this Decree.
- C. This Decree conforms to the Federal Rules of Civil Procedure and Title VII, and is not in derogation of the rights or privileges of any person. Entry of this Decree will further the objectives of Title VII and will be in the best interests of the parties, class members, and public.
- D. No party admits the claims or defenses of another party.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

INJUNCTION

5. Defendant and its directors, officers, agents, assigns, and successors, and all those acting in concert with them are enjoined from engaging in, or permitting, sexual or gender-based harassment or discrimination of any employee, including without limitation by creating, facilitating, or tolerating the existence of a work environment that is sexually hostile to employees.

6. Defendant and its directors, officers, agents, assigns, and successors are enjoined from retaliating in any way against any person because such person has opposed any practice

made unlawful under Title VII, filed a Charge of Discrimination under Title VII, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under or benefited from this Decree.

MONETARY RELIEF

7. Defendant shall pay monetary relief of \$64,000 to Plaintiff-Intervenors and class members, in the amounts set forth below, opposite their respective names:

Abigail Goss	\$12,000
Shannon Flynn	\$12,000
Iris Spivak	\$12,000
Linda Wagman	\$12,000
Jillian Latek	\$6,000
Elizabeth Kozisek	\$10,000

In addition, Defendant will pay \$36,000 in attorneys' fees and costs to counsel for Plaintiff-Intervenors, Michael Johnson, which fully and finally satisfies and extinguishes all claims for attorneys' fees and costs, including, but not limited to, those provided for in 42 U.S.C. § 2000e-5.

8. As a condition of the agreement embodied in this Consent Decree, and in order to qualify to receive the amounts set forth in paragraph 7 above, (a) Elizabeth Kozisek must execute and return to EEOC a copy of the release agreement attached hereto as Exhibit A ("Release Agreement"), and (b) each Plaintiff-Intervenor and Jillian Latek must execute and return to counsel for Plaintiff-Intervenors a supplemental release agreement containing terms that supplement, but do not conflict with, the terms of this Consent Decree ("Supplemental Release"). The Supplemental Releases to be executed by Plaintiff-Intervenors and Latek were the result of negotiations between Defendant, Plaintiff-Intervenors, and Jillian Latek, who were represented by counsel. EEOC did not take part in those negotiations and has not approved the Supplemental Releases. By signing this Decree, Defendant confirms that the Supplemental Releases conform

to Paragraph 29 of this Decree. EEOC or counsel for Plaintiff-Intervenors will send to Defendant the executed Release Agreement and Supplemental Releases received from Ms. Kozisek, the Plaintiff-Intervenors, and Ms. Latek.

9. Within ten (10) business days of receipt by Defendant of all of the Release Agreements and Supplemental Releases referred to in paragraph 8 above, Defendant shall issue and deliver to each person identified in paragraph 7 above a check payable to each such person in the total amount set forth above by mailing said payment by certified mail to the address for that individual as provided to counsel for Defendant by counsel for EEOC or Plaintiff-Intervenors. Counsel for Defendant shall provide copies of all checks to counsel for EEOC within five (5) business days of the time the checks are mailed. Defendant will timely issue an Internal Revenue Service Form 1099 to each person identified in paragraph 7.

10. All costs associated with the distribution of monetary relief shall be paid by Defendant, including, without limitation, all costs associated with issuance and mailing of checks.

POSTING OF NOTICE

11. Within ten (10) business days following entry of this Decree, Defendant shall post a same-sized copy of the Notice attached as Exhibit B to this Decree in a conspicuous location easily accessible to, and commonly frequented by, Defendant's employees. Defendant shall certify to EEOC in writing within ten (10) business days after entry of this Decree that the copy of the Notice has been properly posted and identify the location of such posting. The Notice shall remain posted for a period of two (2) years from the date of entry of this Decree. Defendant shall ensure that the posting is not altered, defaced, or covered by any other material throughout the two-year posting period. Defendant shall permit a representative of EEOC to

enter Defendant's premises for purposes of verifying compliance with this paragraph at any time during normal business hours.

ADOPTION AND DISTRIBUTION OF POLICY AGAINST SEXUAL HARASSMENT, GENDER-BASED HARASSMENT, AND RETALIATION

12. Within thirty (30) calendar days after entry of this Decree, Defendant shall adopt a policy against sexual harassment, gender-based harassment, and retaliation, which includes, at a minimum:

- A. definitions of sexual harassment, gender-based harassment, and retaliation, and examples of behavior that could constitute sexual harassment, gender-based harassment, and retaliation;
- B. a provision that employees can make complaints of sexual harassment, gender-based harassment, and/or retaliation orally or in writing;
- C. a provision that employees can complain of sexual harassment, gender-based harassment, and/or retaliation to any person in the chain of command above the employee;
- D. a provision that an employee found to have engaged in sexual harassment, gender-based harassment, and/or retaliation will be subject to discipline, up to and including termination;
- E. a provision that employees are not required to complain of sexual harassment, gender-based harassment, and/or retaliation to a person against whom they allege harassment;
- F. a provision that Defendant will protect the confidentiality of harassment, discrimination, and/or retaliation complaints to the extent possible;
- G. a provision that employees who complain of sexual harassment, gender-based harassment, and/or retaliation, or who provide information related to such complaints, will not be retaliated against and that employees engaging in retaliation will be subject to discipline, up to and including termination; and
- H. a provision that, promptly upon the conclusion of its investigation of a complaint, Defendant will communicate to the complaining party the results of the investigation.

13. Inclusion of paragraph 12 or any other paragraph in the Decree does not represent approval by either EEOC or the Court of Defendant's policy against sexual harassment, gender-based harassment, and retaliation.

14. Within thirty (30) calendar days after entry of this Decree, Defendant shall distribute to all current employees a copy of the policy and shall provide to EEOC a copy of the policy.

15. The policy shall be included in any relevant policy or employee manuals kept by Defendant. The policy shall also be posted in conspicuous and accessible places for all employees of Defendant.

16. A copy of the policy shall be distributed to each new employee of Defendant on the day the employee is hired. The manager responsible for distributing the policy to each new employee shall review the contents of the policy with the employee.

TRAINING

17. Defendant shall provide training on Title VII's requirements as follows:

- A. Defendant shall retain C. Semrad & Associates, 1366 N. Dearborn, #9B, Chicago, Illinois 60610, to provide training for all employees once every six (6) months during the two (2) year period covered by this Decree with respect to the prevention and eradication of sexual harassment, gender-based harassment, and retaliation from the workplace. Nick Vranas and Demetrios Vranas shall each be required to attend two individual training sessions separate from Defendant's other employees, as described in more detail below.
- B. Training for Defendant's employees (other than Nick Vranas and Demetrios Vranas) shall include (but need not be limited to) a detailed discussion of the law with respect to sexual harassment, gender-based harassment, and retaliation, and the policy and complaint procedure adopted pursuant to the Consent Decree.

- C. During the period covered by this Consent Decree, Nick Vranas and Demetrios Vranas shall each receive a minimum of four (4) hours of individual training annually on the prevention and eradication of sexual harassment, gender-based harassment, and retaliation from the workplace. Nick Vranas and Demetrios Vranas shall each receive additional training beyond the minimum four (4) hours of training required each twelve (12) month period if the trainer deems that additional training is necessary. The training shall include, but need not be limited to, a detailed discussion of the law, Nick Vranas's and Demetrios Vranas's obligations to maintain a work environment free of sexual harassment, gender-based harassment, and retaliation, and the effects of sexual harassment, gender-based harassment, and retaliation on its victims.
- D. Defendant shall first provide training to all employees, including the individual training for Nick Vranas and Demetrios Vranas, within ninety (90) calendar days of the entry of this Consent Decree.
- E. A registry of attendance for each training session shall be retained by Defendant for the duration of the Consent Decree.

18. If C. Semrad & Associates is unable to act or continue to act as trainer, Defendant shall obtain EEOC's approval of its proposed trainer prior to each training session. Defendant shall submit the name, address, telephone number, resume, and training proposal of the alternate proposed trainer, including all materials anticipated to be distributed or presented, whether in paper form, electronic format, or otherwise, during the training, together with the date(s) of the proposed training sessions to EEOC within thirty (30) calendar days prior to the first day of the proposed date(s) of training. EEOC shall have fifteen (15) calendar days from the date of receipt of the information described above to accept or reject the proposed trainer(s). If EEOC does not approve Defendant's designated trainer(s), Defendant shall have thirty (30) calendar days to identify an alternate trainer. EEOC shall have fifteen (15) calendar days from the date of receipt of the information described above to accept or reject the alternate trainer. If EEOC does not

approve Defendant's alternate trainer, and the parties cannot agree upon a trainer, the dispute shall be submitted to the Court for final resolution. Prior to the trainings, the trainer shall be allowed to familiarize himself/herself with the allegations of this case by means of communicating with counsel for any party and/or reviewing documents provided by counsel of any party.

19. Defendant shall provide EEOC with any and all copies of pamphlets, brochures, outlines, or other written materials provided to the participants of the training sessions.

20. Defendant shall certify to EEOC in writing within five (5) business days after each required individual and group training has occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (a) the dates, location and duration of the trainings; (b) a copy of the registry of attendance, which shall include the name and position of each person in attendance; and (c) a listing of all current employees as of the date of the training.

RECORD KEEPING

21. For the duration of this Decree, Defendant shall maintain and make available for inspection and copying by the EEOC the following records: all documents and records which refer or relate to employee complaints regarding alleged sexual harassment, gender-based harassment, and/or retaliation made subsequent to the entry of this Decree. Such records shall include the name of the complainant, the date of the complaint, what was alleged, the name of any witnesses, what actions Defendant took to resolve the complaint, if any, and the resolution of the complaint.

22. Defendant shall make all documents or records referred to in paragraph 21 above available for inspection and copying within ten (10) business days after the EEOC so requests. In addition, Defendant shall make available all persons within its employ whom the EEOC reasonably requests for the purpose of verifying compliance with this Decree, and shall permit the EEOC to enter Defendant's premises during regular business hours for such purpose.

23. Nothing contained in this Decree shall be construed to limit any obligation Defendant may otherwise have to maintain records under Title VII or any other law or regulation.

REPORTING

24. Every six (6) months after entry of this Decree and for the term of this Decree, Defendant shall provide to the EEOC a separate, written report containing a description of each complaint of sexual harassment, gender-based harassment, and/or retaliation, including the name of the complainant, the date of the complaint, what was alleged, the names of any witnesses, a summary of any investigation of the complaint, and the resolution of the complaint. If no employee has made such a complaint, Defendant shall submit a signed statement so stating. The first reports shall be provided six (6) months after entry of the Consent Decree. The final reports shall be provided twenty-one (21) calendar days prior to expiration of the Consent Decree.

25. Every six (6) months after entry of this Decree and for the term of this Decree, Defendant shall provide to EEOC the information recorded and maintained pursuant to paragraph 21 above. The first report shall be provided six (6) months after entry of the Consent Decree. The final report shall be provided twenty-one (21) days prior to expiration of the Consent Decree.

26. Every six (6) months after entry of this Decree and for the term of this Decree, Defendant shall certify to the EEOC that the Notice required to be posted in paragraph 11, above, remained posted during the entire six (6) month period preceding the certification.

DISPUTE RESOLUTION

27. In the event any party believes that another party has failed to comply with any provisions of the Decree, the complaining party shall notify the alleged non-complying party in writing of such alleged non-compliance and afford the alleged non-complying party fifteen (15) calendar days to remedy the non-compliance or satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within fifteen (15) calendar days, the complaining party may apply to the Court for appropriate relief.

DURATION OF DECREE AND RETENTION OF JURISDICTION

28. All provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of two (2) years immediately following entry of the Decree, provided, however, that if, at the end of the two (2) year period, any disputes under paragraph 27 above, remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

MISCELLANEOUS PROVISIONS

29. Defendant agrees that it will not condition the receipt of monetary relief on the agreement of Plaintiff-Intervenors or class members to: (a) maintain as confidential the facts and/or allegations underlying the charges and their complaints and the terms of this Decree; (b)

waive their respective statutory rights to file a charge with any governmental agency; (c) refrain from reapplying for a job with South Loop Club or any successor of Defendant; or (d) agree to a non-disparagement and/or confidentiality agreement.

30. The terms of this Consent Decree shall be binding upon the present and future directors, officers, managers, agents, successors, and assigns of Defendant and any successor(s) of Defendant shall provide a copy of this Decree to any organization or person who proposes to acquire or merge with Defendant or any successor of Defendant, prior to the effectiveness of any such acquisition or merger. This paragraph shall not be deemed to limit any remedies available in the event of any finding by the Court regarding a violation of this Decree.

31. If any provision(s) of the Decree are found to be unlawful, only such provision(s) shall be severed, and the remainder of the Decree shall remain in full force and effect.

32. When the Decree requires the submission by Defendant of documents to the EEOC, they shall be mailed to: June Wallace Calhoun, South Loop Club, Equal Employment Opportunity Commission, Chicago District Office, 500 West Madison Street, Suite 2000, Chicago, Illinois 60661. When the Decree requires the submission of documents to Defendant by the EEOC or counsel for Plaintiff-Intervenors, they shall be mailed to: Elias Matsakis, Holland & Knight LLP, 131 S. Dearborn, 30th Floor, Chicago, Illinois 60603.

For the EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507

JAMES LEE
Deputy General Counsel

For Plaintiff-Intervenors:

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ENTER:

DATE:



February 6, 2013

The Honorable Judge Charles P. Kocoras
United States District Judge

EXHIBIT A

RELEASE

In consideration for Ten Thousand Dollars (\$10,000.00) paid to me by Defendant South Loop Club, Inc., in connection with the resolution of *EEOC v. South Loop Club*, No. 12-CV-07677 (N.D. Ill.), I waive my right to recover for any claims of sexual harassment, gender-based discrimination, termination, constructive discharge, and/or retaliation arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*, and the Civil Rights Act of 1991, 42 U.S.C. §1981a, that I had against Defendant South Loop Club, Inc. and/or any of its past or present shareholders, directors, officers, agents, assigns, and successors, prior to the date of this release and that were included in the claims alleged in EEOC's complaint in *EEOC v. South Loop Club*, No. 12-CV-07677 (N.D. Ill.).

Dated: _____

(Name)

EXHIBIT B

NOTICE TO ALL SOUTH LOOP CLUB EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by a federal court in EEOC v. South Loop Club, No. 12-CV-07677 (N.D. Ill.), resolving lawsuits filed by the Equal Employment Opportunity Commission (“EEOC”) and private plaintiffs against South Loop Club.

EEOC alleged that South Loop Club discriminated against employees by subjecting them to sexual harassment, constructive discharge, and/or retaliation for complaining about sex discrimination and/or harassment.

To resolve the claims and the litigation, and without admitting any wrongdoing, South Loop Club and the EEOC have entered into a Consent Decree which provides, among other things, that:

- 1) South Loop Club will provide monetary relief to the employees who were affected by the alleged discrimination;
- 2) South Loop Club will not discriminate against employees on the basis of sex and will not permit or engage in sexual harassment and/or gender-based harassment;
- 3) South Loop Club will not retaliate against any employee because (s)he opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, or participated in any Title VII proceeding; and
- 4) South Loop Club will provide mandatory training to all employees regarding sexual harassment, gender-based harassment, and retaliation, including mandatory individual training for Nick Vranas and Demetrios Vranas; and

EEOC enforces the federal laws against discrimination in employment on the basis of disability, race, color, religion, national origin, sex, age, and genetic information. If you believe you have been discriminated against, you may contact EEOC at (312) 869-8000. EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE THAT MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for two (2) years from the date below and must not be altered, defaced, or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to: South Loop Club Settlement, EEOC, 500 West Madison Street, Suite 2000, Chicago, IL 60661.

February 6, 2013
Date


The Honorable Judge Charles P. Kocoras