

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
Plaintiff)
)
v.)
)
THE SALVATION ARMY,)
Defendant)
_____)

No. 07-CA-10620 (WGY)

CONSENT DECREE

This cause of action was initiated by the Equal Employment Opportunity Commission (hereinafter "EEOC"), an agency of the United States Government, alleging that The Salvation Army violated Title VII of the Civil Rights Act of 1964, as amended, (Title VII) by adopting an English-only policy and English fluency requirement that were not justified by business necessity and caused the termination of two Hispanic employees, Maria del Carmen Perdomo and Dolores Escorbor from the Salvation Army's Framingham, Massachusetts thrift store.

The EEOC and The Salvation Army desire to settle this action, and therefore do hereby stipulate and consent to the entry of this Decree as final and binding between The Salvation Army and the EEOC, who are the signatories hereto, and their successors or assigns. This Decree resolves all matters related to Civil Action No. 07-CA-10620 (WGY). The Salvation Army and the EEOC (hereinafter "the parties") have agreed that this Decree may be 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 the EEOC's complaint in this case, except for the individual claims of Dolores Escorbor and Maria del Carmen Perdomo, who filed the administrative charges that served as the jurisdictional prerequisites in this case. EEOC shall, within 15 days of the Court's approval of the Decree, issue a Notice of Right to Sue to Dolores Escorbor for EEOC Charge Number 523-2006-00402 and to Maria del Carmen Perdomo for EEOC Charge Number 523-2006-00403. EEOC agrees not to pursue these individual claims. Defendant agrees that this Decree in no way prohibits Ms. Perdomo or Ms. Escorbor from proceeding with any or all of their individual claims. The Parties agree and understand that this Decree in no way affects the EEOC's right to process any pending or future charges that may be filed against The Salvation Army and to commence civil actions on any such charges.

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 The Salvation Army, which has denied the allegations of the Complaint asserting discrimination on the basis of national origin.

4. The obligations in this decree are intended to conform with Title VII.

A. Injunctive Relief

5. The Salvation Army (hereafter construed to mean the Eastern Territory of the Salvation Army in the United States) and its managers, officers, agents, successors, and assigns, shall be enjoined from discriminating on the basis on national origin. The Salvation Army is also enjoined from retaliating against anyone who testified or participated in this case.

B. NOTICE AND POSTING

6. No later than seven (7) days after the entry of this Decree, The Salvation Army shall post at its Worcester ARC thrift stores a copy of a notice printed on its letterhead and signed by Major Copeland, attached hereto as Exhibit "A."

C. WRITTEN POLICY

7. Within ten (10) days of the entry of this decree, the Salvation Army shall amend its Job Description for Sales/Production Associate as follows: In the "Qualifications" section, delete the words "Fluent in the English language; written and spoken," and replace with the words "Ability to speak and understand English in a manner that is sufficient for effective communication with supervisors, employees, beneficiaries, and customers, based on the assumption that such individuals can only speak and understand English."

D. TRAINING

8. **English Language Policy.** Within 10 days of the entry of this Decree, The Salvation Army will distribute a memo to all Thrift Store managers and supervisors within the ARC command. The memo will set out the following points:

a. The Salvation Army's English Language Policy ("ELP") requires that all employees shall utilize English to "the best of the employee's ability when speaking to any other employee, beneficiary, customer, or to a supervisor."

b. The ELP permits the use of non-English languages during lunch and breaks; it permits the use of non-English languages with customers who speak languages other than English; and it penalizes only “willful” violations.

c. A “willful” violation of the ELP does not include an employee who “code switches,” that is, an employee who inadvertently switches from English to his or her native language from time to time.

9. **English Proficiency Requirement.**

The memo discussed in paragraph 8 above will also set out the amendment to the job description explained in paragraph 7 above. The memo will state that limited-English proficient speakers may be hired, so long as they are able to speak and understand English consistent with the job description, and that they do not necessarily need to have the same English proficiency as native English-speaking supervisors. The memo will also state that the fact that a prospective employee speaks a language in addition to English shall never be grounds for denying that person employment.

E. **MONITORING**

10. The EEOC has the right to monitor and review compliance with this Consent Decree, as follows:

a. On or before one year after the entry of this Decree the Salvation Army shall submit written proof via affidavit to the EEOC that it has complied with the above requirements set forth in paragraphs 6-9 above.

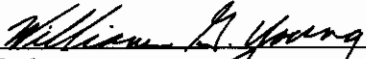
b. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that The Salvation Army fails to perform the promises and representations contained herein.

G. TERM OF DECREE

11. This Decree will remain in effect for one (1) year from the date of entry.

SO ORDERED, ADJUDGED AND DECREED.

Signed this 6th day of Nov, 2008



Judge

APPROVED IN FORM AND CONTENT:

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

/s/ Elizabeth Grossman

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The Salvation Army,
By its attorney,

/s/Kevin Hensley

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