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LEO PALACE RESORTS

16 UNITED STATES DISTRICT COURT
17 DISTRICT OF GUAM

18 EQUAL EMPLOYMENT
19 OPPORTUNITY COMMISSION,

Case No. 1:06-CV-00028

20 CONSENT DECREE; ~~ORDER~~ 94

21 Plaintiff,

22 v.

23 LEO PALACE RESORT,

24 Defendant.
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FILED
DISTRICT COURT OF GUAM

MAR 13 2008 RD.

JEANNE G. QUINATA
Clerk of Court

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I.
INTRODUCTION

Plaintiff U.S. Equal Employment Opportunity Commission (the "EEOC" or "Commission") and Defendant Leo Palace Resort ("Leo Palace" or "Defendant") hereby stipulate and agree to entry of this Consent Decree to resolve the Commission's complaint, filed under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), alleging that Charging Parties Rosemarie Taimanglo, Vivienne Villanueva, and Jennifer Holbrook (hereafter "Charging Party") were subjected to unlawful employment practices on the basis of their sex, female. The Commission's complaint further alleges that Charging Parties were subjected to unlawful retaliation and constructive discharge in violation of Title VII.

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II.
PURPOSES AND SCOPE OF THE CONSENT DECREE

A. The parties to this Consent Decree ("Decree") are the EEOC and Leo Palace. The scope of this Decree encompasses Leo Palace's facilities located in the United States. This Decree shall be binding on and enforceable against Leo Palace and its officers, directors, agents, successors, and assigns.

B. The parties have entered into this Decree for the following purposes:

1. To provide appropriate monetary and injunctive relief;
2. To ensure that Leo Palace's employment practices comply with federal law;
3. To ensure a work environment free from hostility and retaliation;
4. To ensure training for Leo Palace's managers and employees with respect to their obligations under Title VII; and
5. To provide an appropriate and effective mechanism for handling discrimination complaints in the workplace.

1 This Decree resolves all claims the EEOC has brought or could have
2 brought against Leo Palace arising out of this Complaint. This Decree does not
3 constitute an adjudication on the merits of the allegations of the Complaint and
4 does not constitute an admission of wrongdoing.

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6 **III.**
RELEASE OF CLAIMS

7 A. This Decree fully and completely resolves all issues, claims,
8 and allegations by the EEOC against Leo Palace that are raised in the Complaint
9 filed in this action in the United States District Court, District of Guam, on
10 September 29, 2006, captioned U.S. Equal Employment Opportunity Commission
11 v. Leo Palace Resort, Case No. 1:06-CV-00028 (the "Complaint").

12 B. Nothing in this Decree shall be construed to preclude any party from
13 bringing suit to enforce this Decree in the event that any party hereto fails to
14 perform the promises and representations contained herein.

15 C. Nothing in this Decree shall be construed to limit or reduce Leo Palace's
16 obligation to comply fully with Title VII or any other federal employment statute.

17 D. This Decree in no way affects the EEOC's right to bring, process,
18 investigate, or litigate other charges that may be in existence or may later arise
19 against Leo Palace in accordance with standard EEOC procedures.

20 **IV.**
21 **JURISDICTION**

22 A. The Court has jurisdiction over the parties and the subject matter of this
23 lawsuit. The Complaint asserts claims that, if proven, would authorize the Court to
24 grant the equitable relief set forth in this Decree. The terms and provisions of this
25 Decree are fair, reasonable and just. This Decree conforms to the Federal Rules of
26 Civil Procedure and Title VII and is not in derogation of the rights or privileges of
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1 any person.

2 B. The Court shall retain jurisdiction of this action during the duration of the
3 Decree for the purposes of entering all orders, judgments, and decrees that may be
4 necessary to implement the relief provided herein.

5 **V.**

6 **EFFECTIVE DATE AND DURATION OF DECREE**

7 A. The provisions and agreements contained herein are effective immediately
8 upon the date which this Decree is entered by the Court ("the Effective Date").

9 B. Except as otherwise provided herein, this Decree shall remain in effect for
10 three (3) years after the Effective Date.

11 **VI.**

12 **MODIFICATION AND SEVERABILITY**

13 A. This Decree constitutes the complete understanding of the parties with
14 respect to the matters contained herein. No waiver, modification, or amendment
15 of any provision of this Decree will be effective unless made in writing and
16 signed by an authorized representative of each of the parties.

17 B. If one or more provisions of the Decree are rendered unlawful or
18 unenforceable, the parties shall make good faith efforts to agree upon appropriate
19 amendments to this Decree in order to effectuate the purposes of the Decree. In
20 any event, the remaining provisions will remain in full force and effect unless the
21 purposes of the Decree cannot, despite the parties' best efforts, be achieved.

22 C. By mutual agreement of the parties, this Decree may be amended or
23 modified in the interests of justice and fairness in order to effectuate the
24 provisions of this Decree.

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26 **VII.**

1 Internal Revenue Service and other tax authorities. Within three (3)
2 business days of the issuance the settlement check, Leo Palace shall
3 submit a copy of each check and related correspondence to the Regional
4 Attorney, Anna Y. Park, U.S. Equal Employment Opportunity
5 Commission, 255 East Temple Street, 4th Floor, Los Angeles, CA 90012.

6 **IX.**

7 **GENERAL INJUNCTIVE RELIEF**

8 **A. Non-Discrimination**

9 1. Harassment Based on Sex

10 Leo Palace, its officers, agents, management (including all supervisory
11 employees), successors, assigns, and all those in active concert or participation
12 with them, or any of them, hereby are enjoined from: (a) harassing or tolerating
13 harassment against persons on the basis of sex in the terms and conditions of
14 employment; (b) engaging in or being a party to any action, policy, or practice that
15 is intended or is known to them to have the effect of harassing or intimidating any
16 employee on the basis of sex; and (c) creating, facilitating, or permitting the
17 existence of a work environment that is hostile to female employees.

18 2. Retaliation

19 Leo Palace, its officers, agents, management (including all supervisory
20 employees), successors, assigns, and all those in active concert or participation
21 with them, or any of them, hereby are enjoined from engaging in, implementing or
22 permitting any action, policy or practice with the purpose of retaliating against any
23 current or former employee or applicant of Leo Palace, or either of them, because
24 he or she has in the past, or during the term of this Decree: (a) opposed any
25 practice made unlawful under Title VII; (b) filed a charge of discrimination
26 alleging such practice; (c) testified or participated in any manner in any
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1 investigation (including without limitation, any internal investigation undertaken
2 by Leo Palace), proceeding in connection with this case and/or relating to any
3 claim of a Title VII violation; (d) was identified as a possible witness or claimant
4 in this action; (e) asserted any rights under this Decree; or (f) sought or received
5 any relief in accordance with this Decree.

6 **B. Posting**

7 Within ten (10) business days after the Effective Date and throughout the
8 term of this Decree, Leo Palace shall post notice in the form attached as Exhibit
9 "A", in a clearly visible location frequented by employees at each of its facilities.
10 The notice shall remain posted for three (3) years.

11 **C. Equal Employment Opportunity Consultant**

12 Within thirty (30) days after the Effective Date, Leo Palace shall retain an
13 Equal Employment Opportunity Consultant ("Consultant") with demonstrated
14 experience in the area of employment discrimination and sexual harassment issues,
15 to monitor Leo Palace's compliance with Title VII and the provisions of this
16 Decree. The Consultant shall be subject to the Commission's approval, which shall
17 not be unreasonably withheld. Leo Palace shall propose a Consultant to the
18 Commission. If the Commission does not approve Leo Palace's proposed
19 Consultant, the Commission shall provide Leo Palace with a list of at least three
20 suggested candidates acceptable to the Commission. Leo Palace shall bear all
21 costs associated with the selection and retention of the Consultant and the
22 performance of his/her/its duties. The Consultant's responsibilities shall include:

- 23 1. ensuring that Leo Palace's procedures to handle complaints of
24 discrimination, harassment, and retaliation comply with its obligations under this
25 Decree;
- 26 2. ensuring that Leo Palace's anti-harassment policy and reporting
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1 procedure effectively carry out its obligations under this Decree;

2 3. ensuring that managerial and human resources employees are
3 trained on their rights and responsibilities under Title VII, including but not
4 limited to the responsibilities to provide a workplace free of discrimination;

5 4. ensuring that all managerial and human resources employees are
6 trained on policies and procedures relating to sexual discrimination/harassment
7 and retaliation;

8 5. monitoring Leo Palace's investigation of all complaints of sexual
9 discrimination / harassment and retaliation to ensure compliance with Title VII;

10 6. ensuring that Leo Palace properly communicates with complainants
11 regarding the complaint procedure, status of the complaint investigation, results of
12 the investigation, and any remedial action taken;

13 7. ensuring that Leo Palace's reports required by this Decree are
14 accurately compiled and timely submitted;

15 8. ensuring that Leo Palace's disciplinary policies hold employees and
16 managers accountable for failing to take appropriate action or for engaging in
17 conduct prohibited under this Decree;

18 9. ensuring that Leo Palace creates a centralized system of tracking
19 discrimination, harassment, and retaliation complaints;

20 10. further ensuring compliance with the terms of this Decree; and

21 11. and preparing a brief annual report on Leo Palace's progress and its
22 compliance under this Decree.

23 The Consultant shall ensure compliance for the foregoing provisions for the
24 term of the Decree.

25 **D. Policies Concerning Discrimination and Harassment**

26 Leo Palace shall, within ten (10) business days after the Effective Date,
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1 provide a copy to the Commission of a policy on discrimination and sexual
2 harassment that shall include:

3 1. A clear explanation of prohibited conduct;

4 2. Assurance that employees who make complaints of harassment/
5 discrimination or provide information related to such complaints will be protected
6 against retaliation;

7 3. A clearly described complaint process that provides accessible and
8 confidential avenues of complaint with contact information including name (if
9 applicable), address, and telephone number of persons both internal (i.e., human
10 resources) and external to Leo Palace (i.e., Commission and Consultant available
11 to handle complaints concerning high level company officials of Leo Palace's
12 corporate hierarchy) to whom employees may report discrimination and retaliation,
13 including a written statement that the employee may report the discriminatory
14 behavior to designated persons outside their chain of management;

15 4. Assurance that the employer will protect the confidentiality of
16 harassment/discrimination complaints to the extent possible;

17 5. A complaint process that provides a prompt, thorough, and impartial
18 investigation;

19 6. A procedure for communicating with the complainant in writing
20 regarding the status of the complaint/investigation, results of the investigation,
21 and any remedial action taken; and

22 7. Assurance that Leo Palace will take immediate and appropriate
23 corrective action when it determines that harassment/discrimination and/or
24 retaliation has occurred.

25 8. Assurance that Leo Palace's disciplinary policies hold employees and
26 managers accountable for failing to take appropriate action or for engaging in
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1 conduct prohibited under this Decree;

2 EEOC shall comment on the policy within forty-five (45) days of receipt.

3 Should the policy not require any revision, Leo Palace shall confirm distribution of
4 the policy no later than ten (10) business days after the forty-five (45) day period.

5 The policy shall be distributed to all employees, including management /
6 supervisory staff, and shall be included in any relevant policy or employee manuals
7 distributed to employees by Leo Palace. Leo Palace shall maintain
8 acknowledgments from each employee who receives the revised policy.

9 Throughout the term of this Decree, Leo Palace shall also post the revised policy,
10 in a place that is clearly visible to all employees at each of its facilities covered by
11 this Decree in a legible font.

12 **E. Training**

13 Within sixty (60) days after the Effective Date or thirty (30) days after hiring
14 the Consultant, whichever is later, all of Leo Palace's managerial / supervisory,
15 human resources employees shall be required to attend an intensive training
16 program of at least three (3) hours. All employees shall be required to attend a
17 training program of at least one (1) hour in order to review the revised policies and
18 procedures regarding harassment, and to review EEO law. The training shall be
19 mandatory and occur once every year for the term of this Decree. Any manager,
20 supervisor, or employee who failed to attend scheduled training shall be trained
21 within (30) days of the live training set forth above.

22 1. All employees' training shall include coverage of the subjects of equal
23 employment opportunity rights and responsibilities, discrimination, harassment,
24 retaliation, and Leo Palace's revised policies and procedures for reporting and
25 handling complaints of discrimination, harassment and retaliation.

26 2. The training for supervisors, managers, and human resource
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1 employees shall additionally include training on how to properly handle and
2 investigate complaints of discrimination and/or harassment in a neutral manner,
3 how to take preventive and corrective measures against discrimination and/or
4 retaliation, and how to recognize and prevent discrimination and/or retaliation.

5 3. For the remainder of the term of this Decree, all new managerial and
6 human resources employees and all employees recently promoted from a
7 staff/hourly to a managerial position shall receive the managerial or staff/hourly
8 employee training, as appropriate, within thirty (30) days of hire or promotion.

9 4. After the initial training as specified above, all managerial and
10 human resources employees shall receive the training at least annually
11 thereafter for the remainder of the term of this Decree.

12 5. All employees required to attend such training shall verify their
13 annual attendance in writing.

14 6. Within forty-five (45) days after the Effective Date or fifteen (15) days
15 after hiring the Consultant, whichever is later, Leo Palace shall submit to the
16 EEOC a description of the training to be provided and an outline of the curriculum
17 developed for the trainees. Leo Palace shall give the EEOC a minimum of ten (10)
18 business days advance written notice of the date, time, and location of each
19 training program provided pursuant to this Decree, and agrees that an EEOC
20 representative may attend any such training program.

21 7. Human Resources training shall be specific to their obligations,
22 including the handling and investigating of complaints of discrimination and
23 retaliation. This training shall be above and beyond the supervisor / manager
24 training as set forth above.

25 **F. Performance Evaluations**

26 For the upcoming review cycle, Leo Palace shall revise its performance
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1 evaluation forms for managers and supervisors to include as measures for
2 performance compliance with Leo Palace's Anti-Discrimination and Retaliation
3 Policies and Procedures.

4 At least thirty (30) days prior to implementing the performance evaluation
5 forms described above, Leo Palace will provide the EEOC and the Consultant with
6 the proposed revisions in order to provide an opportunity for comment regarding
7 the revisions. EEOC will provide comments, if any, within 30 days of receipt of
8 the proposed revisions. Leo Palace shall respond to such comments within fifteen
9 (15) days of receipt. If the parties cannot agree on the proposed revisions, any
10 disputes will be resolved according to the Dispute Resolution Procedures set forth
11 herein.

12 **G. Complaint Procedure**

13 Within sixty (60) days of the Effective Date, Leo Palace shall ensure that it
14 has publicized an internal complaint procedure to provide for the filing,
15 investigation and, if appropriate, remedying of complaints of discrimination or
16 retaliation. Leo Palace shall establish a toll-free number that shall be disseminated
17 to all Leo Palace employees informing them that a complaint can be logged at any
18 time. The (800) number shall be processed by the Consultant who will in turn
19 monitor Leo Palace's investigation, if necessary. All calls shall be tracked by the
20 Consultant during the term of the Decree. Leo Palace shall also publicize the
21 EEOC complaint line number of (800) 669-4000.

22 Leo Palace shall:

- 23 1. publicize the complaint procedure;
- 24 2. track and collect all complaints filed during the term of the Decree;
- 25 3. investigate and resolve such complaints in a timely and effective
26 manner; and

1 may use the company's internal complaint procedure and contact information for
2 the EEOC or state or local Fair Employment Practice (FEP) agencies. The notice
3 shall also state that filing an internal complaint does not relieve the complainant of
4 meeting any applicable deadline for the filing of a charge or complaint with EEOC
5 or state or local FEP agencies.

6 I. Leo Palace may encourage resolution of internal complaints at a local level
7 prior to investigation, but not require such informal resolution. A complainant
8 shall not be required to first report the complaint to a person who is accused of
9 the inappropriate conduct to invoke the Internal Complaint Procedure.

10 J. The Internal Complaint Procedure will permit, but not require, an employee
11 to initiate the complaint process by submitting a written complaint on a form
12 designed for the purpose.

13 K. The Internal Complaint Procedure is not intended to supplant the right of
14 any employee to file a charge or complaint of discrimination or retaliation under
15 any available municipal, state, or federal law.

16 L. Leo Palace shall publish with the Internal Complaint Procedure the
17 following elements that will be included in the procedure:

18 1. A statement that it is unacceptable to retaliate against any associate for
19 use of the Internal Complaint Procedure, for assisting in the investigation of a
20 complaint, or for otherwise assisting in the utilization of the procedure.

21 2. A statement that if an allegation of discrimination or retaliation against
22 a manager or other associate is substantiated, then such conduct will result in
23 appropriate discipline, up to and including discharge.

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25 **X.**

26 **RECORD KEEPING AND REPORTING**

1 **A. Record-Keeping**

2 Leo Palace shall establish a record-keeping procedure that provides for
3 the centralized tracking of discrimination complaints and the monitoring of
4 such complaints to prevent retaliation. The records to be maintained shall
5 include:

6 1. All documents generated in connection with any complaint,
7 investigation into, the resolution of every complaint of discrimination or
8 retaliation for the duration of the Decree, and the identities of the parties
9 involved;

10 2. All forms acknowledging employees' receipt of Leo Palace's
11 revised discrimination and anti-retaliation policy;

12 3. All documents verifying the occurrence of all training sessions and
13 names and positions of all attendees for each session as required under this
14 Decree; and

15 4. Documents tracking and analyzing complaints filed against the same
16 employee and location.

17 The foregoing documents shall be summarized in the semi-annual reports
18 set forth below.

19 **B. Reporting**

20 In addition to the notices to the EEOC specified above, Leo Palace shall
21 provide, without assertion of the attorney-client privilege or attorney work
22 product, the following reports to the EEOC in writing, by mail or facsimile:

23 1. Within ninety (90) days after the Effective Date, Leo Palace shall
24 submit to the EEOC an initial report which contains:

25 (a) A copy of the revised discrimination and anti-retaliation
26 policy;

- 1 (b) A summary of the procedures and record-keeping methods
2 developed with the Consultant for centralized tracking of
3 discrimination complaints and the monitoring of such complaints;
4 (c) A statement confirming that the required notices pertaining to this
5 Decree and the revised discrimination and anti-retaliation policies
6 have been posted; and
7 (d) Copies of all employee acknowledgment forms indicating receipt
8 of the revised discrimination and anti-retaliation policy.

9 2. Leo Palace shall also provide the following reports semi-
10 annually throughout the term of this Decree:

- 11 (a) The attendance lists of all attendees for all training sessions
12 required under this Decree that took place during the previous six
13 months;
14 (b) Acknowledgments of receipt of the revised discrimination and
15 harassment policy for all employees hired during the previous six
16 months;
17 (c) A description of all discrimination and/or retaliation complaints
18 made since the submission of the immediately preceding report
19 hereunder. This description shall include the names of the
20 individuals alleging harassment or retaliation, the nature of the
21 harassment or retaliation, the names of the alleged perpetrators of
22 harassment or retaliation, the dates of the alleged harassment or
23 retaliation, a brief summary of how each complaint was resolved, and
24 the identity of the Leo Palace employee(s) who investigated or
25 resolved each complaint. If no results have been reached as of the
26 time of the report, the result shall be included in the next report;

- 1 (d) An analysis of the monitoring done for repeat complaints by
2 employees and investigation of complaints; and
3 (e) Leo Palace shall provide a report to the EEOC detailing any
4 changes of the procedures or record-keeping methods for centralized
5 tracking of discrimination complaints and the monitoring of such
6 complaints within thirty (30) days before implementing such changes.

7 **XI.**

8 **COSTS OF ADMINISTRATION AND IMPLEMENTATION**
9 **OF CONSENT DECREE**

10 Leo Palace shall bear all costs associated with its administration and
11 implementation of its obligations under this Consent Decree.

12 **XII.**

13 **COSTS AND ATTORNEYS' FEES**

14 Costs and attorney fees shall be allocated as stated in Section VIII, above.

15 **XIII.**

16 **MISCELLANEOUS PROVISIONS**

17 A. During the term of this Consent Decree, Leo Palace shall provide any
18 potential successor-in-interest with a copy of this Consent Decree within a
19 reasonable time of not less than thirty (30) days prior to the execution of any
20 agreement for acquisition or assumption of control of any or all of Leo Palace's
21 facilities, or any other material change in corporate structure; and shall
22 simultaneously inform the EEOC of same.

23 B. During the term of this Consent Decree, Leo Palace, and its successors
24 shall assure that each of its officers, managers and supervisors is aware of any
25 term(s) of this Decree which may be related to his/her job duties.

26 C. Unless otherwise stated, all notices, reports and correspondence required
27 under this Decree shall be delivered to the attention of the Regional Attorney,
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1 Anna Y. Park, U.S. Equal Employment Opportunity Commission, Los Angeles
2 District Office, 255 E. Temple St., 4th Fl., Los Angeles, CA. 90012.

3 D. The parties agree to entry of this Decree and judgment subject to final
4 approval by the Court.

5 EQUAL EMPLOYMENT
6 OPPORTUNITY COMMISSION

7 Dated:

8 By: 
9 Anna Y. Park
10 Attorneys for Plaintiff

11 LEO PALACE

12 Dated: 2/29/2008

13 By: 
14 Seiji Saito, its General Manager

15 **ORDER** *4.4.*

16 **GOOD CAUSE APPEARING:**

17 The Court hereby retains jurisdiction and the provisions of the
18 foregoing Consent Decree are hereby approved and compliance with all provisions
19 thereof is **HEREBY ORDERED.**

20 **IT SO ORDERED.**

21 Dated:

22 United States District Court Judge