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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

AHMED ELSHENAWY,

Plaintiff-Intervenor,

v.

SIERRA PACIFIC INDUSTRIES

Defendant.

CIVIL ACTION NO.2:08-CV-01470-KJN

~~[PROPOSED]~~ CONSENT DECREE

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Plaintiff U.S. Equal Employment Opportunity Commission (“Commission” or “EEOC”) brought this lawsuit under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, to correct alleged unlawful employment practices on the basis of national origin and retaliation, and to provide appropriate relief to Charging Party Ahmed Elshenawy, who alleged he was adversely affected by such practices.

In the interest of resolving this matter the EEOC and Sierra Pacific Industries (“Defendant”) (hereinafter referred to as “the Parties”) have agreed that the above-captioned lawsuit (the “Lawsuit”) should be finally resolved by entry of this Consent Decree.

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**CONSENT DECREE
CV-01470-MCE**

1 This Consent Decree shall not constitute an adjudication and/or a finding on the merits of the
2 Lawsuit. This Consent Decree resolves all claims raised by the EEOC which stem from EEOC
3 Charge No. 370-2005-00641 (Ahmed Elshenawy v. Sierra Pacific Industries) and the EEOC
4 Complaint in this Lawsuit, and constitutes a complete resolution of all claims of discrimination
5 under Title VII that were made or could have been made by the EEOC based on this charge. This
6 Consent Decree does not, however, resolve any future charges or charges that may be pending with
7 the EEOC other than the charge and Complaint specifically referenced in this paragraph. The parties
8 agree that the conditions and terms of this Consent Decree apply to the employees and operations of
9 Defendant's Red Bluff Millwork facility in Red Bluff, California.
10

11 This Consent Decree comprises the full and exclusive agreement of the EEOC and Defendant
12 with respect to the matters discussed herein. No waiver, modification or amendment of any
13 provision of this Consent Decree shall be effective unless made in writing and approved by all the
14 Parties to this Decree, and any substantive change, modification or amendment of any provision of
15 this Consent Decree shall also require approval by the Court.
16

17 The Court has reviewed this Consent Decree in light of the pleadings, the record herein, and
18 now approves this Consent Decree.

19 **THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

20 **I. GENERAL PROVISIONS**

21 This Court has jurisdiction over the subject matter and the Parties to this Lawsuit. This Court
22 will retain jurisdiction over this Decree for all purposes until the expiration of Defendant's
23 obligations as set forth herein.
24

25 This Consent Decree is final and binding upon the Parties, their agents, successors and
26 assigns. The Parties will each bear their own costs and attorney fees in this action.
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1 **II. GENERAL INJUNCTIVE RELIEF: NON-DISCRIMINATION AND NON-**
2 **RETALIATION**

3 **National Origin Discrimination:** Consistent with Section 703 of Title VII, 42 U.S.C. §2000e-
4 2, Defendant and its officers, agents, managers (including supervisory employees), successors and
5 assigns, are enjoined from discriminating against persons on the basis of national origin, including
6 harassment.

7 **Retaliation:** Consistent with Section 704 of Title VII, 42 USC § 2000e-3, Defendant, its
8 officers, agents, managers (including supervisory employees), successors and assigns, are enjoined
9 from engaging in, implementing or permitting any action, policy or practice with the purpose of
10 retaliating against any current or former employee because he or she has in the past, or during the
11 term of this Consent Decree (a) opposed any practice of harassment or other discriminatory acts on
12 the basis of national origin made unlawful under Title VII; (b) filed a Charge of Discrimination
13 alleging any such practice; (c) testified or participated in any manner in any investigation (including,
14 without limitation, any internal investigation undertaken by Defendant), proceeding or hearing in
15 connection with this Lawsuit; (d) was identified as a possible witness in this Lawsuit; or (e) asserted
16 any rights under this Consent Decree.
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19 **III. SPECIFIC INJUNCTIVE RELIEF**

20 1. **EEO and Anti-Discrimination Policies:** Following a court ordered settlement
21 conference on September 4, 2012, the parties agreed to revisions regarding the company's three
22 Equal Opportunity Policies to include, inter alia, definitions of statutory covered bases, examples of
23 prohibited harassment, time frames for internal complaints of discrimination and statutory time
24 frames for filing charges with the EEOC. A copy of the modified policies in a form consistent with
25 its earlier policies, shall be submitted to the EEOC, attention of Linda Ordonio Dixon, Senior Trial
26 Attorney, within fifteen (15) days of entry of the Consent Decree. If the EEOC does not inform
27 Defendant's counsel of any concerns regarding the modified policies within fourteen (14) days of
28

1 receipt, the policies shall be deemed compliant with this Consent Decree.

2 **2. Distribution of Policies:** Defendant shall effectively disseminate its modified policies
3 and procedures by: (a) distributing copies of the policy to all current employees within forty-five
4 (45) days of the date of entry of this Consent Decree; (b) giving a copy of the policy to all new
5 employees within twenty (20) days of the employees' hire; and requiring each newly hired employee
6 who receives a copy of the policies and procedures to sign a statement acknowledging his or her
7 signature.
8

9 **3. Training of Employees:** During the two-year period from entry of this Consent
10 Decree, Defendant will present training on discrimination, harassment and retaliation, including
11 national origin discrimination harassment and retaliation to all employees, management and non-
12 management, at its Red Bluff Millworks facility, as set-forth in Section III, 4, Training Logistics,
13 below. The first training sessions for all employees shall take place within one hundred twenty (120)
14 days of entry of this Consent Decree. The purpose of said training shall be to give participants an
15 understanding of discrimination issues, particularly national origin discrimination and harassment
16 and retaliation, sources of legal protection for discrimination victims, the employees' obligation to
17 report discrimination, the employer's obligation to take preventive, investigative and remedial action
18 with respect to discrimination complaints, and to review company policies (including discipline
19 policies) and practices related to discrimination and retaliation.
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22 **4. Training Logistics:** The training for management employees shall be a minimum of
23 two (2) hours each year of this Consent Decree. The training for non-management employees shall
24 be a minimum of one (1) hour during each year of this Consent Decree, and may be conducted in
25 two separate thirty minute training sessions in each of the respective years. The training sessions
26 shall be conducted by individuals with established credentials and/or significant experience in the
27 area of employment discrimination training. Defendant agrees to provide a description of each
28

1 training program and copies of materials to be used to counsel for the EEOC no later than twenty
2 (20) days before the training programs are scheduled to be held.

3 **5. Acknowledgment of Training Attendance:** All persons attending mandatory anti-
4 discrimination training pursuant to this Consent Decree shall sign an acknowledgment of their
5 attendance at the training. Defendant shall retain the originals of these acknowledgments. The
6 EEOC may inspect these documents with ten (10) days notice to Defendant.
7

8 **6. Reports to the Commission**

9 **a. Training Report**

10 Within thirty (30) days of completion of the training required by this Consent Decree,
11 Defendant will send to the EEOC verification of its completion of its
12 discrimination/harassment/retaliation training for its employees.
13

14 **b. Complaints of Discrimination**

15 For the duration of the Consent Decree, Defendant shall provide to the EEOC the following
16 information for each complaint of national origin and/or retaliation discrimination received at its Red
17 Bluff Millworks facility:

- 18 i. Description of complaint
 - 19 ii. Report of investigation of complaint
 - 20 iii. Determination and resolution of complaint
 - 21 iv. Name and contact information of complainant
- 22

23 The first report shall be submitted no later than December 31, 2012. Thereafter, the
24 information shall be submitted on a yearly basis on each anniversary date of the entry of the Consent
25 Decree. Further, Defendant shall maintain all evidence related to each complaint, which will be
26 available for inspection by the EEOC with ten (10) working days notice.
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1 7. **Policies Designed to Promote Supervisor Accountability**

2 a. **Communication of Potential Discipline for Engaging in National**
3 **Origin Harassment and/or Retaliation.**

4 Defendant shall continue to implement and administer its policies which impose appropriate
5 discipline, up to and including termination, suspension without pay or demotion, upon any
6 supervisor or manager who engages in national origin discrimination or knowingly permits any such
7 conduct to occur in his or her work area or among employees under his or her supervision, or who
8 retaliates against any person who complains or participates in any investigation or proceeding
9 concerning such conduct. Defendant shall communicate this policy to all of its supervisors and
10 managers.
11

12 b. **Communication of Duty to Actively Monitor Worksite.**

13 Defendant will insure that all managers and supervisors are advised of their duty to actively
14 monitor their work areas to ensure employee compliance with Defendant's anti-discrimination
15 policy, and to report any incidents and/or complaints of discrimination and/or retaliation of which
16 they become aware to the individuals charged with handling such complaints.
17

18 8. **Posting:** Defendant shall post for the duration of this Decree, in a prominent place
19 frequented by its employees at its Red Bluff facility, the notice attached as Exhibit A.
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21 **IV. MONETARY RELIEF**

22 Defendant shall pay the total gross sum of \$95,000 (the "Settlement Payment") as damages
23 to Ahmed Elshenawy and his attorney. Defendant shall cause to be prepared an IRS Forms 1099-
24 misc, checking Box 3 for this sum.

25 Within ten (10) days following the entry of this Consent Decree, Defendant shall deliver such
26 payment in the form of a business check, cashier's check, or certified check. The payment shall be
27 sent via Federal Express to Ahmed Elshenawy's attorney, Michael Deems. A copy of the payment
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1 documents shall be provided to the EEOC.

2 **V. RETENTION OF JURISDICTION AND EXPIRATION OF CONSENT DECREE**

3 a. This Consent Decree shall terminate two (2) years from the date of entry by the
4 Court, unless the Commission petitions this Court for an extension of the Decree because of non-
5 compliance by Defendant. If the Commission determines that Defendant has not complied with the
6 Consent Decree, the Commission will provide Defendant and its counsel written notification of the
7 alleged breach and will not petition the Court for enforcement sooner than thirty (30) days after
8 providing written notification. The thirty-day period following written notice shall be used by the
9 parties for good faith efforts to resolve the issue. If the Commission petitions the Court and the
10 Court finds Defendant to be in substantial violation of the terms of the Decree, the Court may extend
11 this Consent Decree.
12

13 b. Except as provided in the preceding paragraph, two (2) years after the entry of this
14 Consent Decree, this lawsuit automatically will be deemed dismissed with prejudice, provided that
15 Defendant has complied substantially with the terms of this Consent Decree. Defendant will be
16 deemed to have complied substantially if the Court has not made any findings or orders during the
17 term of the Decree that Defendant has failed to comply with any of the terms of this Decree. This
18 Consent Decree will automatically expire without further Court Order.
19
20

21 Dated: October 4, 2012

22 /s/William R. Tamayo
23 William R. Tamayo
24 Attorney for Plaintiff EEOC
25 *as authorized on 10/4/2012

26 /s/Jonathan T. Peck
27 Jonathan T. Peck
28 Attorney for Plaintiff EEOC
*as authorized on 10/4/2012

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/s/Linda S. Ordonio-Dixon
Linda S. Ordonio-Dixon
Attorney for Plaintiff EEOC

/s/ Michael R. Deems
Michael R. Deems
DEEMS & KELLER LLP
Attorney for Plaintiff Intervenor Elshenawy
*as authorized on 10/4/2012

/s/Shelley C. Addison
Shelley C. Addison
DUN & MARTINEK LLP
Attorney for Defendant SPI
*as authorized on 10/4/2012

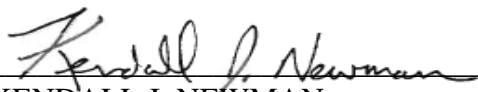
/s/ Daniel J. Coyle
Daniel J. Coyle
DOWNEY BRAND LLP
Attorney for Defendant SPI
*as authorized on 10/4/2012

ORDER

The foregoing Consent Decree is the order of the court. The Clerk of the Court is hereby directed to “administratively close” this case.¹

IT IS SO ORDERED.

Date: 10/19/2012


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

¹ While this case will be “administratively closed” so that it will not appear on the court’s list of currently-pending cases, the court will retain jurisdiction to enforce this Consent Decree as described above, and the parties will still have the ability to file documents in this action should the need arise. After two years from the date of entry of this Consent Decree, however, the action will be closed for all purposes in accordance with the terms stated above.

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NOTICE To Employees: Red Bluff Millworks

This Notice is being posted pursuant to a Consent Decree in settlement of all claims related to the federal lawsuit Equal Employment Opportunity Commission (EEOC)/Ahmed Elshenawy vs. Sierra Pacific Industries. (Civil Action 05-01470 MCE-KJN, Eastern District of California).

The Consent Decree does not constitute an adjudication and/or a finding on the merits of the Lawsuit and should not be construed as an admission of liability by Sierra Pacific Industries. Sierra Pacific Industries and the EEOC each have voluntarily entered into the Consent Decree.

Federal law prohibits an employer from engaging in discrimination which includes national origin, harassment and/or retaliation for raising a complaint of discrimination. Sierra Pacific Industries supports and will comply with such federal law in all respects.

Sierra Pacific Industries will provide anti-discrimination training to its employees pursuant to the Consent Decree.

Any employee who believes he or she has a work place complaint of discrimination should contact his or her immediate supervisor or Human Resources.

Employees have the right to bring complaints of employment discrimination to the United States Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.

The EEOC is the federal agency responsible for enforcing the federal laws prohibiting employment discrimination. More information about the EEOC is available at www.eeoc.gov, or (800) 669-4000.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE
DEFACED OR REMOVED BY ANYONE**

This notice must remain posted for two years from the date below and must not be altered, defaced or covered by any other material.

Dated: _____

Human Resources