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 14 UNITED STATES DISTRICT COURT FOR  
 15 THE NORTHERN DISTRICT OF CALIFORNIA

16 U.S. EQUAL EMPLOYMENT	)	Case No.: 11 04844 SI
17 OPPORTUNITY COMMISSION,		
18 Plaintiff,		
19		
20 vs.		
21 SAFEWAY, INC.,		
22 Defendant.		

**CONSENT DECREE**

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26 I. INTRODUCTION

27 Plaintiff U.S. Equal Employment Opportunity Commission (“Commission” or “EEOC”)  
 28 brought this lawsuit under Title I of the American with Disabilities Act, as amended by the

1 ADA Amendments Act of 2008, 42 U.S.C. § 12101 et seq. (“ADA”) and Title I of the Civil  
2 Rights Act of 1991 to correct alleged unlawful employment practices on the basis of disability  
3 and to make whole Glenn Davis (“Charging Party”) (Charge No. 556-2008-00404) who was  
4 aggrieved by the alleged unlawful practices. Plaintiff EEOC alleged that defendant Safeway  
5 Inc., (“Safeway” or “Defendant”) unlawfully deterred Charging Party from applying for a  
6 promotion due to his disability. Defendant has denied these allegations.

7 Additionally, the EEOC alleges that Defendant violated Title VII of the Civil Rights Act  
8 of 1964, as amended, 42 U.S.C. §2000e-10(a) and the ADA, 42 U.S.C. §12115 by failing to post  
9 an EEOC poster.

10 In the interest of resolving this matter and as a result of having engaged in comprehensive  
11 settlement negotiations, the Commission and Safeway (hereinafter referred to as “the Parties”)  
12 have agreed that the above-captioned lawsuit (the “Lawsuit”) should be finally resolved by entry  
13 of this Consent Decree. This resolution and Consent Decree shall not constitute an admission of  
14 liability on the part of Defendant, nor does it constitute an adjudication or a finding on the merits  
15 of the EEOC’s allegations in Lawsuit.

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

21 The Court has reviewed this Decree in light of the pleadings, the record herein, and the  
22 applicable law, and now approves this Decree.

23 THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

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25 **I. GENERAL PROVISIONS**

26 1. This Court has jurisdiction over the subject matter and the Parties to this Lawsuit.

27 This court will retain jurisdiction over this Decree for all purposes until the expiration of the  
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1 Consent Decree. The Commission's Complaint shall be dismissed with prejudice upon  
2 expiration of the term of the Consent Decree.

3           2.       This Consent Decree resolves all claims that were made by the Commission on  
4 behalf of the Charging Party based upon his charge of discrimination referenced above, and the  
5 Commission's complaint in this action. This Consent Decree is final and binding upon the  
6 Parties, their successors and assigns.

7           3.       This Decree shall become effective upon its entry by the Court.

8           4.       The Parties to this Decree shall each be responsible for their own costs and  
9 attorneys' fees in this action.  
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12 **II.    GENERAL INJUNCTIVE RELIEF**

13           5.       **ADA:** Defendant, its officers, agents, and management employees or any of  
14 them, agree not to (a) engage in or be a party to any action, policy, practice that is intended to or  
15 is known to them to have the effect of discriminating against any employee of Defendant on the  
16 basis of disability.  
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18           6.       **Retaliation:** Defendant, its officers, agents, and management employees, , or any  
19 of them, agree not to implement or permit any action, policy or practice with the purpose of  
20 retaliating against any current or former employee of Defendant because she or he complained  
21 about disability discrimination, filed a charge of discrimination alleging any such practice,  
22 testified or participated in any manner in any investigation (including, without limitation, any  
23 internal investigation undertaken by Defendant), proceeding or hearing in connection with this  
24 case; or was identified as a possible witness in this action.  
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1           7. Defendant will ensure that an EEOC poster is posted in its Carmel, California  
2 store location and visible at all times pursuant to Title VII of the Civil Rights Act of 1964, as  
3 amended, 42 U.S.C. §2000e-10(a) and and the ADA, 42 U.S.C. §12115.

4           **III. MONETARY RELIEF**

5           8. In settlement of the EEOC's claims in this action, Defendant will pay the  
6 Charging Party the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00).  
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8           9. The above settlement amount for Charging Party shall be issued in two checks  
9 drafted in Charging Party's name. The first check in the amount of Ten Thousand Dollars  
10 (\$10,000.00) represents compensation for Charging Party's alleged emotional distress damages  
11 and shall be reported as Form 1099 income, and the second check in the amount of Two  
12 Thousand Five Hundred Dollars represents compensation for Charging Party's alleged lost  
13 wages and shall reported as W-2 income. Both checks will be mailed to Charging Party's  
14 address as shall be provided by the EEOC. Defendant shall make payment in the form of  
15 business checks, cashier checks or certified checks.  
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17           10. Payment shall be made no later than 20 business days after the entry of the  
18 Consent Decree.  
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20           11. At the time that Safeway sends the check to the Charging Party, it shall provide a  
21 copy of the check to EEOC counsel of record, Evangelina Fierro Hernandez, EEOC 350 The  
22 Embarcadero, Suite 500, San Francisco, CA 94105-1260.  
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24           **IV. SPECIFIC INJUNCTIVE RELIEF**

25           **12. Training on ADA and Safeway's Policy to Accommodate the Disabled.**

26           Safeway has a Policy to Accommodate the Disabled concerning which Northern  
27 California division store managers receive training. Within Ninety 90 business days of entry of  
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1 this Consent Decree, Safeway will provide at least two hours of re-training on the ADA to all its  
2 store managers and assistant managers employed at the Carmel, California store location. The  
3 training shall be conducted by persons who are well-versed and experienced in the area of  
4 employment law under Federal and state statutes and laws. The cost of the training shall be  
5 borne by Defendant.

6  
7 The purpose of said training shall be to give participants an understanding of EEO  
8 obligations and compliance, including but not limited to what constitutes a disability under  
9 federal and state statutes and laws, the ADA interactive process, sources of legal protection for  
10 disabled employees, taking action with respect to requests for accommodation, and to review  
11 company policies (including all disability related policies) and practices related to disability.

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13 **13. Disclosure of Information Regarding the Charging Party's Employment**

14 In the event of Charging Party's resignation from his employment with Safeway:

- 15 a. Charging Party agrees to direct all inquiries concerning his Safeway employment  
16 to Safeway's employment and income verification vendor, The Work Number,  
17 800-367-5690 or [www.theworknumber.com](http://www.theworknumber.com). In response to such inquiries,  
18 Safeway will disclose only Charging Party's dates of employment, last position  
19 held and final rate of pay. If requested, Safeway shall explain that it is its policy  
20 to provide only the identified information in response to reference requests  
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22 b. Safeway agrees that no reference to a charge of discrimination against Safeway  
23 and this Lawsuit will be maintained in Charging Party's personnel file.

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25 **14. Report to the Commission**

- 26 a. Training Report:  
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1 All persons attending mandatory disability related training pursuant to this  
2 Consent Decree shall sign an acknowledgment of their attendance at the training, the date  
3 thereof, and their position with Safeway. Safeway shall retain the originals of these  
4 acknowledgments and provide the EEOC with a copy within thirty (30) business days of  
5 completion of the training.

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7 b. Disability Complaint Reports:

8 Safeway agrees to provide the following reports relating to employee/applicant disability  
9 related complaints made to its Human Resources Representative arising out of the Carmel,  
10 California store location:

11 i. Initial Reports: Ninety (90) days after entry of this Consent Decree,

12 Safeway will mail to counsel of record for the EEOC a report containing  
13 the following information and documentation (the "Initial Report"):

- 14 1. A summary of all complaints of disability discrimination or failure to  
15 provide reasonable accommodation, if any, made to Safeway's Human  
16 Resources Representative from the date of entry of this Consent  
17 Decree to the date of the Initial Complaint Report. This summary  
18 shall contain a brief description of the complaint and a statement as to  
19 the results of each investigation of such complaints. This report shall  
20 identify the name of the employee.
- 21 2. A copy of all records, documents, and all writing relevant to such  
22 complaint investigations shall be maintained by Safeway during the  
23 period of this Consent Decree. Copies of the documents shall be made  
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1 available to the Commission within ten (10) business days following a  
2 written request from the Commission to Safeway's counsel.

3 ii. Subsequent Report: On the first business day of January and of June of  
4 each year during the duration of this Consent Decree, Safeway will mail to  
5 counsel of record for the EEOC a report containing the above information.  
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7 **V. RETENTION OF JURISDICTION AND EXPIRATION OF CONSENT**  
8 **DECREE**

9 15. This Consent Decree shall terminate two (2) years from the date of entry by the  
10 Court, unless the Commission petitions this Court for an extension of the Decree because of  
11 noncompliance by Safeway. If the Commission determines that Safeway has not complied with  
12 the Consent Decree, the Commission will provide written notification of the alleged breach to  
13 Safeway and will not petition the Court for enforcement sooner than thirty (30) business days  
14 after providing written notification. The thirty-day period following written notice shall be used  
15 by the parties for good faith efforts to resolve the issue. If the Commission petitions the Court  
16 and the Court finds Safeway to be in substantial violation of the terms of the Decree, the Court  
17 may extend this Consent Decree.  
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20 Safeway will be deemed to have complied substantially if the Court has not made any  
21 findings or orders during the term of the Decree that Safeway has failed to comply with any of  
22 the terms of this Decree. This Consent Decree will therefore automatically expire without  
23 further Court Order.  
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25 Dated this \_\_\_\_ day of May 2012.  
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27 P. DAVID LOPEZ  
28 General Counsel

JAMES LEE




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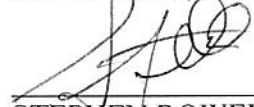
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Date:   
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**ORDER APPROVING CONSENT DECREE**

It is so ordered.

DATED this 31st day of May, 2012.

  
SUSAN ILLSTON  
FEDERAL JUDGE