

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**)
)
)
Plaintiff,)
)
)
)
)
v.)
)
ARKANSAS BAPTIST COLLEGE,)
)
)
Defendant.)

Civil Action No.
4:10-CV-1072

CONSENT DECREE

INTRODUCTION

Plaintiff, Equal Employment Opportunity Commission (hereinafter the "Commission"), instituted this civil action on July 26, 2010, based on a charge filed by Mary Jarrett. The Complaint alleges that Defendant Arkansas Baptist College (hereinafter the "Defendant"), violated the Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act of 1964 (Title VII), and Title I of the Civil Rights Act of 1991 by retaliating against Mary Jarrett for filing a previous charge of discrimination.

Defendant denies any liability, but the parties wish to resolve the instant controversy without the expense, delay, and burden of further litigation.

If this Consent Decree is not approved or does not become final, it shall not be admissible in evidence in any subsequent proceeding in this action.

This Court has reviewed the terms of the Consent Decree in light of the applicable laws and regulations and the representations of counsel for all parties and hereby approves the Consent Decree.

I. JURISDICTION

1. The United States District Court for the Eastern District of Arkansas, Western Division, has jurisdiction over the parties and subject matter of this litigation.

II. SCOPE AND DURATION OF AGREEMENT

2. This Consent Decree resolves only Charge No. 493-2009-01038 filed by Mary Jarrett that created the procedural foundation for the Complaint filed in this case.

3. This Consent Decree constitutes the complete and exclusive agreement between the Commission and Defendant with respect to the matters referred to herein and arising out of Charge No. 493-2009-01038.

4. No waiver, modification, or amendment of any provision of this Consent Decree shall be effective unless made in writing and signed by both parties. No representations or inducements to compromise this action have been made other than those recited or referenced in this Consent Decree.

5. The provisions and agreements contained herein are effective immediately upon the date which this Decree is entered by the Court.

6. This Agreement shall remain in effect for two years.

III. INJUNCTIVE RELIEF

7. Defendant, its officers, agents, management, (including supervisory employees), successors, and assigns shall not engage in reprisal or retaliation of any kind against any person because such person:

- a. opposed any practice made unlawful under Title VII or the ADEA;
- b. filed a charge of discrimination with the Commission or testified or participated in any manner in any investigation, proceeding, or hearing under Title VII or the ADEA;
- c. participated in any manner in this action or in the investigation giving rise to this action; or
- d. asserted any rights under this Consent Decree.

8. Defendant will create a policy prohibiting retaliation and will include the retaliation policy with Defendant's other policies prohibiting discrimination.

9. Defendant will distribute the new policy to all employees.

10. Thereafter, the policy will be incorporated into Defendant's Handbook, and whenever a new supervisor, manager, or employee is hired, Defendant will require him or her to read and sign for receipt of Defendant's handbook which contains the new policy.

11. Defendant shall provide two hours of retaliation training to all personnel at Arkansas Baptist College. One hour of training has been or shall be provided within 90 days of entry of this Decree by the Court. One hour of training shall be provided at some time within 2012. Defendant will retain an outside Human Resources Expert or Attorney who is knowledgeable about retaliation in the workplace and has experience in labor and employment law to conduct the training.

12. Defendant's training will primarily focus on:

- a. Defendant's new written policy prohibiting retaliation;
- b. What constitutes retaliation under the ADEA and Title VII.

13. Immediately after the training is administered, each manager and supervisor will sign a statement affirming that he or she received the training and that they understand that their failure to follow company policy may result in disciplinary action up to and including termination.

14. Within 30 days after execution of this Consent Decree by the parties, Defendant shall submit to the Commission the date of the proposed training session and a copy of the new retaliation policy.

15. Defendant shall provide to the EEOC a roster of all attendees and a copy of the training materials following the training. This information should be forwarded to Pamela B. Dixon, Senior Trial Attorney for the EEOC at the address listed on the signature page of this Decree.

16. Within 30 days after the requirements in this Section have been met, Defendant will submit a report to Pamela B. Dixon, Senior Trial Attorney for the EEOC, at the address listed on the signature page of this Decree, confirming that all requirements of Section V have been met.

VI. REPORTING

17. Defendant will provide two reports to the EEOC after entry of the Decree. Each report will describe any complaints of retaliation, describe the investigation conducted by Defendant in response to the complaint, and indicate how the complaint was resolved.

18. Each report will also include a certification by Defendant that the notice required to be posted pursuant to Section VII of this Decree remained posted from the entry of this Consent Decree until the date of each report.

19. Defendant will submit the first report within 12 months of entry of the Decree. Defendant will submit the second and final report within 23 months of entry of the Decree.

19. Both reports will be forwarded to Pamela B. Dixon, Senior Trial Attorney, at the Little Rock Area office of the EEOC.

VII. POSTING AND POLICIES

20. Defendant shall continue to conspicuously post at Arkansas Baptist College the notice (poster) required by law. Defendant will ensure that the most current poster is being utilized.

21. Within 30 days of the entry of this Consent Decree, Defendant shall post and cause to remain posted for a period of two years at Arkansas Baptist College the notice attached hereto as Exhibit A. The notice shall be in the same typeface and size as Exhibit A and shall be on official college letterhead.

VIII. CHARGING PARTY RELIEF

22. In full settlement of this case, Defendant shall pay \$20,000.00 to Mary Jarrett in the following amounts:

- a. \$17,000.00 in non pecuniary compensatory damages
- b. \$3,000.00 in back pay, subject to employee income and payroll tax

withholding.

23. Defendant will issue Mary Jarrett a W-2 for the back pay amount of \$3,000.00 and will issue Mary Jarrett a 1099 form for the amount of \$17,000.00.

24. Within 10 business days of the entry of this Decree by the Court, Defendant shall mail a check, via certified mail, to Mary Jarrett at the following address:

Mary Jarrett
10 Maryton Park Cove
Little Rock, Arkansas 72204

25. At the same time that the checks are issued to Ms. Jarrett, a copy of the checks and related correspondence will be mailed to Pamela B. Dixon, Senior Trial Attorney. Late payment of the checks to Mary Jarrett shall be subject to the accrual of interest pursuant to 28 U.S.C. §1961.

IX. EXPUNGEMENT

26. Defendant agrees to expunge the personnel records of Mary Jarrett of any reference to the charge of discrimination or the litigation of the matter.

27. If any potential employer of Mary Jarrett requests a job reference, the request shall be forwarded to the attention of the current college President. The reference shall be identical to Exhibit B, be on official College letterhead, and shall be signed by the current President. No mention of Ms. Jarrett's charge of discrimination or this lawsuit shall be made as part of any reference.

X. NOTIFICATION OF SUCCESSORS

28. Defendant will provide to any potential purchaser of Defendant's business or a purchaser of all or a portion of Defendant's assets, and to any other potential successor, prior written notice of the Commission's lawsuit, the allegations raised in the Commission's Complaint, and the existence of the Consent Decree and contents and obligations of the settlement.

XI. ENFORCEMENT

29. If Defendant fails to comply with the terms of this Decree, the Commission has a right to enforce the obligations under the Decree. The Commission will provide 10 days

notice to Defendant of any deficiency in complying with the terms of the Decree. If the parties are unable to reach agreement regarding resolution of any such deficiency in Defendant's compliance with the terms of the Decree, the Commission will then have the option of petitioning the Court for relief.

XII. COSTS

30. Each party shall bear that party's own costs, attorneys' fees, and expenses.



BRIAN S. MILLER
U.S. DISTRICT JUDGE

DATE: March 31, 2011

FOR DEFENDANT:



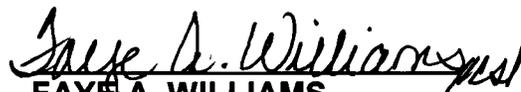
DANIEL L. HERRINGTON
Friday, Eldredge & Clark, LLP
400 West Capitol, Ste. 2000
Little Rock, AR 72201
(501) 370-1571

FOR THE COMMISSION:

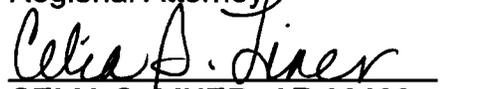
P. DAVID LOPEZ
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel



FAYE A. WILLIAMS
Regional Attorney

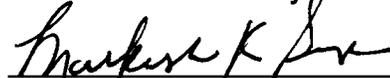


CELIA S. LINER, AR 90183
Acting Supervisory Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1407 Union Avenue, Suite 901
Memphis, TN 38104



PAMELA B. DIXON
Senior Trial Attorney



MARKEISHA SAVAGE
Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Little Rock Area Office
820 Louisiana, Suite 200
Little Rock, Arkansas 72201
(501) 324-5065
(501) 324-6474

EXHIBIT A

NOTICE

1. This Notice to all employees of Arkansas Baptist College is being posted as part of an agreement between Arkansas Baptist College and the Equal Employment Opportunity Commission.
2. Arkansas Baptist College has agreed to train its supervisors and managers on the prevention of retaliation in the workplace.
3. The ADEA is a federal law that provides that it shall be an unlawful employment practice for an employer to discriminate against any individual because of such individual's age. Title VII is a federal law that provides that it shall be an unlawful employment practice for an employer to discriminate against any individual because of such individual's race, color, religion, sex, national origin.
4. Arkansas Baptist College supports and will comply with the ADEA and Title VII in all respects and will not take any action against employees because they have opposed employment practices made illegal by the ADEA or Title VII or exercised their rights under those laws by filing charges with the Equal Employment Opportunity Commission, or because they testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under the ADEA or Title VII.
5. If you believe that you have been retaliated against, you may contact the Equal Employment Opportunity Commission (EEOC) at the following national toll free number: 1-800-669-4000. If you have a TTY device for hearing impaired: TTY Number is 1-800-669-6820. You may also contact the EEOC's Memphis District Office at the following number: 1-501-324-5014 (TTY)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

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

Arkansas Baptist College

Title

EXHIBIT B

REFERENCE LETTER

To Whom It May Concern:

This letter is in response to your inquiry regarding the employment of Ms. Mary Jarrett while employed at Arkansas Baptist College. Ms. Jarrett worked at the college from 1969 through August of 2009. In addition to teaching various classes in orientation, sociology, government, and history, Ms. Jarrett was also Chair of the Department of Social Sciences. She served as Academic Dean, Vice President for Academic Affairs, and Interim and Acting President. Her most recent position was that of Director of Alumni and Nontraditional Student Relations and consultant. Company policy does not permit us to give out any other information concerning Ms. Jarrett's employment.

Very truly yours,

President
Arkansas Baptist College