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**BEFORE THE ADMINISTRATIVE LAW JUDGE
FOR A HUMAN RIGHTS COMMISSION HEARING**

WASHINGTON STATE HUMAN RIGHTS
COMMISSION, presenting the case in
support of the complaint filed by Dalia
Garcia,

Complainant,

v.

AGRI-PACK, L.L.C.,

Respondent.

OAH Docket No. 07-2016-HRC-0002

CONSENT DECREE

(CLERK'S ACTION REQUIRED)

I. JUDGMENT SUMMARY

- 1.1 Judgment Creditor: Washington State Human Rights Commission
- 1.2 Judgment Debtor: AGRI-PACK, L.L.C.
- 1.3 Principal Judgment Amount:
 - a. Backpay: \$1,764.00
 - b. General Damages: \$9,000.00
- 1.4 Total Judgment: \$10,764.00
- 1.6 Post Judgment Interest Rate: 12% per annum
- 1.7 Attorney for Judgment Creditor: Patricio Marquez
Assistant Attorney General

1 | II. GENERAL

2 | 2.1 Complainant Washington State Human Rights Commission, having conducted
3 | an investigation and commenced this action pursuant to RCW 49.60, the Washington Law
4 | Against Discrimination, presenting the case in support of the Complaint filed by Dalia Garcia;
5 | and

6 | 2.2 Respondent Agri-Pack, L.L.C. ("Agri-Pack" or "Respondent"), having been
7 | served with the Notice of Hearing and Amended Complaint; and the Washington State Human
8 | Rights Commission (the "Commission"), appearing by and through its attorneys,
9 | Robert W. Ferguson, Attorney General and Patricio A. Marquez, Assistant Attorney General;
10 | and Respondent, appearing by and through its attorneys Kenneth A. Miller of Miller Mertens
11 | & Comfort, PLLC; and

12 | 2.3 The Commission and Respondent having agreed on a basis for the settlement of
13 | the matters alleged in the Amended Complaint and to the entry of this Consent Decree against
14 | Respondent without the need for hearing or adjudication of any issue of law or fact; and

15 | 2.4 The Commission and Respondent agree this Consent Decree does not constitute
16 | evidence or an admission regarding the existence or non-existence of any issue, fact, or
17 | violation of any law alleged by the Commission with the exception that Respondent admits
18 | those allegations in the Amended Complaint necessary to the jurisdiction of this Court; and

19 | 2.5 Respondent recognizes and states that this Consent Decree is entered into
20 | voluntarily and that no promises, representations, or threats have been made by the Attorney
21 | General's Office or any member, officer, agent, or representative thereof to induce it to enter
22 | into this Consent Decree, except for the promises and representations provided herein; and

23 | 2.6 Respondent waives any right it may have to appeal from this Consent Decree or
24 | to otherwise contest the validity of this Consent Decree; and
25 |
26 |

1 2.7 Respondent agrees that it will not oppose the entry of this Consent Decree on
2 the ground it fails to comply with Civil Rule 65(d), and hereby waives any objections based
3 thereon; and

4 2.8 Respondent further agrees this Court shall retain jurisdiction of this action and
5 jurisdiction over Respondent for the purpose of implementing and enforcing the terms and
6 conditions of this Consent Decree and for all other purposes related to this matter; and

7 2.9 Respondent further agrees its payments made or due pursuant to this Consent
8 Decree are not amenable to discharge in bankruptcy, and it shall not seek or support their
9 discharge in bankruptcy nor oppose their being determined not amenable to discharge in
10 bankruptcy; and

11 2.10 Respondent further agrees its payments made or due pursuant to this Consent
12 Decree are not preferential transfers of assets, and it shall not make or support arguments to the
13 contrary in bankruptcy court or elsewhere.

14 The Court, finding no just reason for delay;

15 **NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED as**
16 **follows:**

17 2.11 This Court has jurisdiction of the subject matter of this action and of the parties.
18 The Commission's Amended Complaint in this matter states claims upon which relief may be
19 granted under the Washington Law Against Discrimination, RCW 49.60.

20 2.12 For purposes of this Consent Decree the term "Respondent," where not otherwise
21 specified, shall mean AGRI-PACK, L.L.C.

22 2.13 This Consent Decree finally resolves all claims the Commission may have
23 under the Washington Law Against Discrimination, RCW 49.60, against Respondent arising
24 out of the facts described in the Amended Complaint filed in this action, except that
25 Respondent's failure to comply with this Consent Decree shall permit the Commission to take
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1 such further action against Respondent as provided in this Consent Decree, or otherwise
2 allowed by law.

3 I. INJUNCTIONS

4 3.1 Application of Injunctions. The injunctive provisions of this Consent Decree
5 shall apply to Respondent, and Respondent's successors, assigns, officers, members, agents,
6 servants, employees, representatives, and all other persons in active concert or participation
7 with Respondent.

8 3.2 Notice. Respondent shall immediately inform all successors, assigns,
9 transferees, officers, members, agents, servants, employees, representatives, and all other
10 persons or entities in active concert or participation with Respondent of the terms and
11 conditions of this Consent Decree and shall direct those persons and/or entities to comply with
12 this Consent Decree.

13 3.3 Injunctions. Respondent and all successors, assigns, transferees, officers,
14 members, agents, servants, employees, representatives and all other persons or entities in active
15 concert or participation with Respondent are hereby permanently enjoined and restrained from
16 directly or indirectly violating or failing to comply with the provisions of the Washington Law
17 Against Discrimination, RCW 49.60, as currently written or as they are amended in the future.

18 Furthermore:

19 3.4 Respondent is prohibited from engaging in conduct, or allowing its managers,
20 supervisors, or employees to engage in conduct, that constitutes harassment and/or
21 discrimination against employees or prospective employees on the basis of their gender
22 identity.

23 3.5 Respondent is prohibited from discriminating against men in hiring vegetable
24 sorters.

25 3.6 Within ninety (90) days of the entry of this Consent Decree, and on an annual
26 basis thereafter for the next three (3) years, each of Agri-Pack's managers and floor supervisors

1 shall undergo a one hour equal employment opportunity training with an emphasis on preventing
2 discrimination on the basis of sex, gender identity and sexual orientation. The trainer shall be
3 approved in advance by the Office of the Attorney General. Agri-Pack shall obtain certificates
4 confirming the attendance of each individual who receives training, including the date, name of
5 the course, length of the course, name of the instructor, and name of the individual who completed
6 the course. Copies of these certificates shall be submitted to the Office of the Attorney General.
7 Agri-Pack shall bear any expenses associated with this training.

8 3.7 Possible Modification of Injunctions Due to Material Change in Circumstances. In
9 the event Respondent permanently ceases its business operations, enters into a contract to sell its
10 business assets, or experiences a similar material change in circumstance affecting the
11 applicability of the foregoing injunctions, Respondent shall advise Patricio A. Marquez,
12 Assistant Attorney General, Office of the Attorney General, Civil Rights Unit, 800 Fifth
13 Avenue, Suite 2000, Seattle, Washington 98104, in writing of the material change in
14 circumstance and request a reasonable and appropriate modification to the injunctions or
15 termination of the same. The Commission shall have sole discretion whether to agree to the
16 requested modification or termination of the same, but a request for reasonable and appropriate
17 modification or termination of the injunctions shall not be unreasonably withheld. Any
18 resulting amendment to the Consent Decree shall be in writing and subject to Court approval.

19 II. MONETARY PAYMENTS

20 4.1 Pursuant to RCW 49.60.250 and WAC 162-08-298, Respondent shall pay (1)
21 the sum of \$1,764.00 in back pay and (2) the sum of \$9,000.00 in general damages in full
22 settlement of any and all claims by Dalia Garcia arising out of the events complained of in the
23 Amended Complaint.

24 4.2 Respondent agrees to pay the principal judgment amount of \$10,764.00 in full
25 by January 1, 2017. Payment shall be made by certified check(s) or cashier's check(s) made
26 payable to Edgar Garcia Garcia, which check shall be delivered to Patricio A. Marquez,

1 Assistant Attorney General, Office of the Attorney General, Civil Rights Unit, 800 Fifth
2 Avenue, Suite 2000, Seattle, Washington 98104.

3 4.3 Respondent's failure to make any payment required by this Consent Decree
4 shall be a material breach of the Consent Decree.

5 III. ENFORCEMENT

6 5.1 If, after notice to Respondent and an opportunity to be heard at an evidentiary
7 hearing, the Court finds by a preponderance of evidence that Respondent has violated a
8 material condition of the Consent Decree, the Commission may seek imposition of additional
9 conditions, damages, injunctive relief, and such other remedies as the Court may deem
10 appropriate and reasonable against Respondent.

11 5.2 Nothing in this Consent Decree shall be construed to limit or bar any other
12 governmental entity or person from pursuing other available remedies against Respondent or
13 any other person.

14 5.3 Under no circumstances shall this Consent Decree, or the name of the
15 Washington State Human Rights Commission, the Office of the Attorney General, the Civil
16 Rights Unit, or any of their employees or representatives be used by Respondent or any of its
17 successors, assigns, transferees, officers, members, agents, servants, employees,
18 representatives, and all other persons or entities in active concert or participation with
19 Respondent, in connection with any selling, advertising, or promotion of products, services, or
20 employment, or as an endorsement or approval of Respondent's acts, practices, or conduct of
21 business.

22 5.4 The Commission shall be permitted, upon ten (10) days advance notice to
23 Respondent, to access, inspect, and/or copy all business records or documents in the
24 possession, custody, or control of Respondent reasonably necessary to monitor compliance
25 with this Consent Decree, provided that the inspection and copying shall avoid unreasonable
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1 disruption of Respondent's business activities and shall not include financial records beyond
2 those related to the training required by, or compliance with, the Consent Decree.

3 5.5 The Commission shall be permitted to propound Interrogatories on Respondent
4 pursuant to the provisions of Civil Rule 33 to reasonably monitor compliance with this Consent
5 Decree.

6 5.6 The Commission shall be permitted to propound Requests for Production of
7 Documents on Respondent pursuant to the provisions of Civil Rule 34 to reasonably monitor
8 compliance with this Consent Decree.

9 5.7 The Commission shall be permitted to question Respondent or any officer,
10 member, agent, servant, employee, or representative of Respondent by deposition pursuant to
11 the provisions of Civil Rule 30 to reasonably monitor compliance with this Consent Decree.

12 **IV. DISMISSAL**

13 6.1 The Prehearing Conference Order and Notice of Hearing, with all applicable
14 hearing and pre-hearing dates and deadlines, is hereby vacated.

15 6.2 Pursuant to WAC 162-08-298(10), the Court shall retain jurisdiction of this action
16 and jurisdiction over Respondent for a period of three-and-a-half (3 1/2) years from the date of
17 entry of this Consent Decree. Thereafter, this proceeding shall be dismissed by the Court.

18 6.3 The Clerk of the Court is ordered to enter the foregoing Judgment and Consent
19 Decree immediately.

20 6.4 The office of Administrative Hearings will take no further
21 action and return the
22 case file to
23 the Commission.

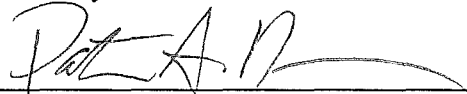
24 **DONE IN OPEN COURT** this 12th day of January, 2017
25 December, 2016.

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ADMINISTRATIVE LAW JUDGE

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Presented by:

ROBERT W. FERGUSON
Attorney General



PATRICIO A. MARQUEZ, WSBA #47693
Assistant Attorney General
Attorney for Complainant
Washington State Human Rights Commission

Approved for entry, notice of presentation
waived:

MILLER MERTENS & COMFORT, PLLC



KENNETH A. MILLER, WSBA #10946
Attorney for Respondent
AGRI-PACK, L.L.C.

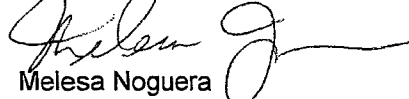
CERTIFICATE OF SERVICE FOR OAH DOCKET NO 07-2016-HRC-00002

I certify that true copies of this document were served from Tacoma, Washington, via Consolidated Mail Services upon the following as indicated:

<p>Dalia Garcia 1300 N 24th Ave., Apt A3 Pasco, WA 99301 Complainant</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Lola Velazquez Northwest Justice Project 311 N. 4th St., Suite 201 Yakima, WA 98901 Complainant Representative</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Agri-Pack LLC PO Box 2086 Pasco, WA 99302 Respondent</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Kenneth Miller Miller Mertens & Comfort PLLC 1020 N. Center Parkway, Ste. B Kennewick, WA 99336 Respondent Representative</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Patricio Marquez, AAG Office of the Attorney General MS: TB 14 800 Fifth Avenue, Suite 2000 Seattle, WA 98104 Agency Representative</p>	<p><input type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Laura Skinner Washington State Human Rights Commission MS 42490 PO Box 42490 Olympia, WA 98504 Agency Contact</p>	<p><input type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>

Date: Tuesday, January 17, 2017

OFFICE OF ADMINISTRATIVE HEARINGS


 Melesa Noguera
 Legal Assistant 2

