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JAN 24 2017

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

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STATE OF WASHINGTON
SPOKANE COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff

v.

FLAG HILL LUMBER CO. INC. d/b/a
GREENACRES MOTORS; GREENACRES
MOTORS, LLC d/b/a GREENACRES
MOTORS; AND MONTE L. MASINGALE, in
his individual capacity, and as a member of the
marital community of MONTE L.
MASINGALE and ROSANA MASINGALE,

Defendants.

NO. 15-02-04271-2

CONSENT DECREE

I. INTRODUCTION

1.1 The State of Washington, through its attorneys Robert W. Ferguson, Attorney General, and Colleen M. Melody, Assistant Attorney General, commenced this action to enforce the Washington Law Against Discrimination, RCW 49.60, and the Unfair Business Practices—Consumer Protection Act, RCW 19.86. The State alleges that Flag Hill Lumber Co. Inc. d/b/a Greenacres Motors, Greenacres Motors, LLC d/b/a Greenacres Motors, and Monte L. Masingale (collectively, “the Defendants”) engaged in discrimination on the basis of sex and unfair or deceptive acts or practices in the conduct of trade or commerce, in violation of RCW 49.60.180, RCW 49.60.220, and RCW 19.86.020.

1 1.2 Specifically, the Attorney General alleges that the Defendants have violated the
2 Washington Law Against Discrimination, RCW 49.60.180 and RCW 49.60.220, by:

- 3 1. Discriminating against female employees and prospective employees
4 on the basis of sex through sexual harassment;
5 2. Discharging female employees because of sex;
6 3. Refusing to hire male employees for secretarial positions because of
7 sex; and
8 4. Aiding, abetting, encouraging, or inciting the commission of unfair
9 employment practices.

10 1.3 The Attorney General further alleges that the Defendants have violated the
11 Consumer Protection Act, RCW 19.86.020, by:

- 12 1. Engaging in unfair or deceptive employment practices in the course of
13 selling cars and recreational vehicles in trade or commerce; and
14 2. Publishing unfair or deceptive advertisements to the general public
15 regarding employment opportunities at Greenacres Motors.

16 1.4 The parties agree on a basis for settlement of the Attorney General's
17 allegations and to the entry of this Consent Decree without the need for further proceedings to
18 determine any issue of law or fact.

19 1.5 The Defendants agree that they will not oppose the entry of this Consent
20 Decree on the ground that it fails to comply with Rule 65(d) of the Superior Court Civil Rules
21 and hereby waive any objection based thereon.

22 1.6 The Defendants waive any right they may have to appeal from this Consent
23 Decree.

24 **NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED as**
25 **follows:**
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II. INJUNCTIONS

2.1 The injunctive provisions of this Consent Decree shall apply to the Defendants and their successors, assigns, transferees, officers, agents, servants, employees, representatives, and all other persons in active concert or participation with the Defendants.

2.2 The Defendants shall immediately inform all successors, assigns, transferees, officers, agents, servants, employees, representatives, and all other persons in active concert or participation with the Defendants of the terms and conditions of this Consent Decree.

2.3 The Defendants and all successors, assigns, transferees, officers, agents, servants, employees, representatives, and all other persons in active concert or participation with the Defendants are hereby permanently enjoined and restrained from directly or indirectly engaging in the following acts or practices:

1. Sexually harassing female employees or prospective employees;
2. Discharging female employees because of sex;
3. Refusing to hire male employees for certain positions because of sex;
4. Aiding, abetting, encouraging, or inciting the commission of any unfair employment practice listed above; and
5. Placing or causing to be placed misleading or deceptive advertisements to the general public related to employment opportunities.

III. NON-DISCRIMINATION POLICY

3.1 Within sixty (60) days of the entry of this Consent Decree, Defendants Flag Hill Lumber Co, Inc. and Greenacres Motors, LLC shall adopt a Nondiscrimination Policy covering all of their business locations. The Nondiscrimination Policy will be submitted to the Office of the Attorney General at least ten (10) days before its implementation. The Nondiscrimination Policy will take effect if the Office of the Attorney General makes no objection to the Nondiscrimination

1 Policy prior to its proposed effective date. The Nondiscrimination Policy will be in the form of
2 Appendix A attached hereto.

3 3.2 Within ten (10) days of its adoption, Defendants Flag Hill Lumber Co. Inc. and
4 Greenacres Motors, LLC shall distribute a copy of the Nondiscrimination Policy in the form of
5 Appendix A and this Consent Decree to each of their employees. Defendants Flag Hill Lumber
6 Co. Inc. and Greenacres Motors, LLC shall secure a signed statement from each employee
7 acknowledging that he or she has received and read the Nondiscrimination Policy and this
8 Consent Decree, has had the opportunity to have questions about the Nondiscrimination Policy
9 and this Consent Decree answered, and agrees to abide by the relevant provisions of the
10 Nondiscrimination Policy and this Consent Decree. This statement shall be in the form of
11 Appendix B. Signed copies of the Nondiscrimination Policy shall be submitted to the Office of
12 the Attorney General within fifteen (15) days of adoption of the Nondiscrimination Policy.

13 3.3 During the term of this Consent Decree, any new employee of Defendants Flag
14 Hill Lumber Co. Inc. or Greenacres Motors, LLC shall be given a copy of the Nondiscriminatory
15 Policy and this Consent Decree. Within ten (10) days of beginning employment, any new
16 employee shall sign the acknowledgment of the Nondiscrimination Policy and such
17 acknowledgment shall be submitted to the Office of the Attorney General within fifteen (15) days
18 of the new employee's commencing employment.

19 IV. TRAINING

20 4.1 Within ninety (90) calendar days following the entry of this Consent Decree,
21 Defendants Flag Hill Lumber Co. Inc. and Greenacres Motors, LLC shall provide, at their
22 own cost, mandatory training on the law of equal employment opportunity and prohibited
23 harassment to all of their employees. The training shall be conducted by an independent,
24 qualified third party, approved in advance by the Office of the Attorney General. At
25 minimum, the training must consist of instruction on the requirements of applicable state and
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1 federal antidiscrimination laws in the employment context, and must include an opportunity
2 for questions and answers.

3 4.2 Defendants Flag Hill Lumber Co. Inc. and Greenacres Motors, LLC shall
4 obtain from the trainer certifications of attendance executed by each individual who received
5 the training and confirming their attendance. Within ten (10) days following the training,
6 Defendants Flag Hill Lumber Co. Inc. and Greenacres Motors, LLC shall submit confirmation
7 of training and copies of the training certifications to the Office of the Attorney General. The
8 confirmation shall include the name of the instructor, the date the course was taken, the length
9 of the course, and shall include a copy of any materials distributed by the trainer.

10 **V. REPORTING AND DOCUMENT RETENTION REQUIREMENTS**

11 5.1 For a period of three years following the entry of this Consent Decree,
12 Defendants Flag Hill Lumber Co. Inc. and Greenacres Motors, LLC shall notify the Office of
13 the Attorney General in writing within ten (10) days of receipt of any written or oral
14 complaint of employment discrimination against Defendants Flag Hill Lumber Co. Inc. or
15 Greenacres Motors, LLC or any successors, assigns, transferees, officers, agents, servants,
16 employees, representatives, or other person in active concert or participation with them. The
17 notification shall include the full details of the complaint, including the complainant's name,
18 address, and telephone number. If the complaint is in writing, Defendants Flag Hill Lumber
19 Co. Inc. and Greenacres Motors, LLC shall provide a copy of the complaint along with the
20 notification. Defendants Flag Hill Lumber Co. Inc. and Greenacres Motors, LLC shall provide
21 the Office of the Attorney General all information it requests concerning any such complaint,
22 including information regarding any investigation or resolution of such complaint.

23 5.2 For a period of three years following the entry of this Consent Decree,
24 Defendants Flag Hill Lumber Co. Inc. and Greenacres Motors, LLC shall preserve all records
25 related to their obligations under this Consent Decree, including all documents, whether in
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1 paper or electronic form, that relate to employment discrimination complaints regarding either
2 of them. Upon reasonable notice to Defendants Flag Hill Lumber Co. Inc. or Greenacres
3 Motors, LLC, representatives of the Office of the Attorney General shall be permitted to
4 inspect and copy all such records.

5 **VI. MONETARY RELIEF**

6 6.1 A judgment shall be, and hereby is, entered against the Defendants in the
7 amount of \$280,000. The judgment is composed as follows:

8 1. The amount of \$130,000 in victim restitution and damages pursuant to RCW
9 19.86.080(2) and RCW 49.60.030(2). This portion of the judgment constitutes willful and
10 malicious injury to another entity for purposes of 11 U.S.C. § 523(a)(6).

11 2. The amount of \$30,000 in civil penalties pursuant to RCW 19.86.140. This
12 portion of the judgment constitutes a fine, penalty, or forfeiture payable to and for the benefit
13 of a governmental unit, and is not compensation for a pecuniary loss, for purposes of 11
14 U.S.C. § 523(a)(7).

15 3. The amount of \$120,000 for the payment of the Attorney General's costs and
16 fees pursuant to RCW 49.60.030(2) and RCW 19.86.080. The Attorney General's costs and
17 fees result from the prosecution of conduct that constitutes willful and malicious injury to
18 another entity for purposes of 11 U.S.C. § 523(a)(6).

19 **VII. PAYMENT CONDITIONS**

20 7.1 The monetary judgment in paragraph 6.1 shall not become final until approved
21 by the United States Bankruptcy Court. Payment of monetary relief shall be made subject to
22 the orders entered by the United States Bankruptcy Court for the Eastern District of
23 Washington in Case No. 15-03276-FPC11.
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1. Upon reasonable notice, the Office of the Attorney General shall be permitted to access, inspect, and/or copy all business records or documents in the possession, custody, or control of any Defendant to monitor compliance with this Consent Decree, provided that the inspection and copying shall avoid unreasonable disruption of the Defendant's business activities.

2. The Office of the Attorney General shall be permitted to question by deposition any Defendant or any successor, assign, transferee, officer, agent, servant, employee, representative, or other person in active concert or participation with any Defendant to monitor compliance with this Consent Decree. Such depositions are subject to the provisions of Rule 30 of the Superior Court Civil Rules.

3. The Office of the Attorney General shall be permitted to propound interrogatories on any Defendant to monitor compliance with this Consent Decree. Such interrogatories are subject to the provisions of Rule 33 of the Superior Court Civil Rules.

4. The Office of the Attorney General may monitor and enforce this Consent Decree through any other lawful means, including through its civil investigative demand authority pursuant to RCW 19.86.110.

8.4 Nothing in this Consent Decree shall be construed to limit or bar any other person or governmental entity from pursuing other available remedies against the Defendants or any other person.

