

**NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED
PEOPLE, and the NEW JERSEY
STATE CONFERENCE, NAACP**

v.

Defendant.

Civil No. _____

This action was brought by the plaintiffs alleging that the Township of Clark engages in and has engaged in hiring and recruitment practices that discriminate against black applicants for employment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq. (hereinafter "Title VII"). The Township of Clark denies that it has discriminated against black applicants for employment or against anyone else in its recruitment and hiring practices.

The parties wish to settle this action by appropriate Consent Order without the burdens and expense of continued litigation. For that purpose and in consideration of the mutual promises set forth herein the parties agree to waive, for purposes of this Stipulation only, a hearing and findings of fact and conclusions of law and agree to the adoption of this Stipulation.

The parties further agree that the U.S. District Court has jurisdiction over the subject matter of this litigation pursuant to Title VII, that all prerequisites to suit under Title VII have either been met by plaintiffs or waived by defendant, that plaintiffs have standing to bring the present action, and that defendant is an employer within the meaning of 42 U.S.C. 2000e(b). This Stipulation shall be final and binding between the parties as to all issues raised in this suit to date.

Nothing in this Stipulation shall be construed as evidence of an admission by defendant of a violation of any law, regulation, rule or order, or of an agreement by defendant that the provisions of this stipulation set forth the minimum standards for the hiring of municipal employees, including police officers and firefighters. By entering into this Stipulation, defendant expressly denies any wrongdoing on its part. The parties believe that nothing in this Stipulation requires Clark to adopt any procedure or practice that is inconsistent with the requirements of New Jersey law, regulations or procedures.

Accordingly, it is hereby STIPULATED that:

1. The Township of Clark, its officers, trustees, employees, agents and all other persons acting in concert with them (hereinafter "Clark"), shall cease to follow or enforce Ordinance Article 2, Section 23.4 of the revised general ordinance of the Township of Clark "Ordinance" with respect to recruitment and hiring municipal employees, shall cease to follow the practice of using residence as a criterion for eligibility to

compete for municipal jobs, and shall not otherwise require residence in Clark as a condition of any employment with Clark and shall not grant a preference in recruiting, selection or promotion to residents of Clark or otherwise use residence as a criterion for the recruiting, selection, tenure or promotion of any employees; and shall cease to rely upon word-of-mouth recruitment and recruitment directed solely to residents of Clark, except that Union County residents may be given preference for hiring for all civil service positions; and shall not engage in any like or related employment practice which unlawfully discriminates against minorities in the recruitment or hiring or in other terms or conditions of employment.

Nothing in this Stipulation shall be read as preventing Clark from adopting an ordinance or other policy of requiring police officers and other personnel whose jobs require them to respond to an emergency, within a reasonable time after appointment, to reside within a reasonable distance (determined to be fifteen miles) of Clark in order to facilitate a prompt response to an emergency.

Nothing in this Stipulation shall be read as preventing Clark from adopting an ordinance or other policy of granting a preference in recruitment and hiring of police officers to residents of Union County over residents of other counties. Nothing in this Decree shall be read as requiring Clark to dismiss, demote or otherwise change the employment of any current employee of Clark.

2. Clark shall seek to amend its ordinances and practices, and particularly to implement paragraph 1 above. The parties understand that such an amendment is subject to public notice, hearing, debate and legislative vote. The parties further understand that this Stipulation shall not be in force and effect until and unless such amendment shall have been adopted by the Clark Township Committee. All persons on current eligibility lists will be notified of the legislative process involved in the amendment of the aforesaid ordinances and will be invited to attend and be heard at the public hearing. The parties further understand that this Stipulation shall not be in full force and effect until and unless such amendment shall have been adopted by the Clark Township Committee.

Upon the amendment to the Municipal Code described above, Clark shall immediately advise the New Jersey Department of Personnel of its change in policy with respect to classification of applicants on the basis of residence and shall promptly furnish the Department of Personnel with a copy of this Stipulation and the amended ordinance, and shall request that the Department of Personnel cancel existing lists of eligibles and create new lists at the earliest practicable date.

3. Clark shall immediately cease filling municipal employment vacancies from lists created while a policy and practice of classifying applicants according to their municipal residence and granting a preference in selection and hiring to residents of Clark was in effect; and shall readvertise and

retest or request the New Jersey Department of Personnel to readvertise and retest for any vacancies previously advertised but not yet filled. Any person who met the age requirement for police officer or firefighter examination at the time it was administered and who is on a list of eligibles that has not expired as of the date of this Stipulation for any municipality in Union County shall be deemed to have satisfied the age requirement for police officer for purposes of the new examinations contemplated by this Stipulation.

4. The purpose of this Stipulation is to ensure that the recruitment and hiring practices of Clark are lawful and non-discriminatory, and to ensure that no one is unlawfully disadvantaged by its recruitment and hiring practices. In particular, pursuant to this Stipulation, Clark shall in good faith seek to recruit and employ qualified black applicants in numbers reflecting their availability in the relevant labor market. To achieve that objective, Clark shall adopt and implement affirmative recruitment activities directed towards potential black applicants in addition to recruitment directed at other potential applicants and shall use fair and non-discriminatory hiring and other employment procedures. Clark shall develop and implement application forms and valid selection procedures for provisional temporary and part time employees and for employees in job classifications such as laborer and clerk typist that are filled without competitive examinations administered by the Department of Personnel. Clark's recruitment

program for such positions shall be administered and conducted by Clark.

5. Clark shall promptly implement a new recruiting program and implement record keeping and reporting procedures as provided below.

Recruitment Program

6. In accord with the purposes of this Stipulation, Clark shall create and maintain a recruitment program aimed at attracting qualified black applicants to compete for openings with the Township. The program shall include public service announcements in newspapers having a black audience within Union County. The program shall have as its goal the recruitment of black applicants for each position or examination in numbers reflecting their availability in the job category being filled. For purposes of this Stipulation the black representation in the labor pools available to Clark as a municipal employer shall be considered equal to the black representation in the work force of private employer establishments located in Clark as shall be mutually agreed by the parties; and the percentage of blacks available for police officer positions shall be considered to be equal to those within the range of representation of blacks in the protective service of state and local government employers in Union County. Although it is anticipated by the parties that the recruitment program adopted herein will attract qualified black applicants in numbers which reflect their availability in the

relevant labor pool, the parties recognize the possibility that the goal may not be achieved for reasons beyond the control of Clark.

7. Clark shall follow the recruitment program set forth in Attachment C to this Decree. The parties may modify the program upon application to and approval to a court of appropriate jurisdiction or by mutual written agreement at any time. The parties shall meet periodically at the request of plaintiffs to evaluate the effectiveness of the various elements of the recruitment program and to determine what modifications or additions, including additional paid radio or other advertising, if any, are warranted better to achieve the goals of the program.

8. Clark shall maintain records of the recruitment measures used in filling each vacancy category of vacancies and in establishing each list of eligibles, as provided in paragraphs 10-12 below.

9. The provisions of this Stipulation are not intended to reduce the qualification standards for employment with Clark. Nothing in this Decree shall obligate Clark to create new positions, to hire unnecessary personnel, to contract or refrain from contracting out work (provided that such contracting does not have the effect of preventing compliance with this Decree), or to hire, transfer or promote any person who is not qualified as measured by valid qualification standards, or who is less qualified than another in the applicant pool, as measured by valid qualification standards.

Records and Reporting

10. The parties recognize that for classified competitive job classifications, the New Jersey Department of Personnel makes announcements and conducts examinations for Clark and Clark only has full control over the selection procedures for other job classifications. Clark shall make and maintain, and shall make good faith efforts to ensure that the Department of Personnel makes and maintains, for the duration of this Decree, all records concerning the implementation of this Decree, including:

- a. the text of each announcement or notice of testing and/or vacancy, the places where it was posted and/or filed, the persons contacted at such places, and the dates of such contacts and posting, the newspapers in which it was published and the dates of publication, and the radio and television stations (if any) where it was broadcast and the dates and times of such broadcasts;
- b. all applications, eligibility lists, seniority rosters, interview notes, background investigations, test results, disciplinary actions, evaluations, and complaints of discrimination in employment;
- c. for each vacancy or job title that is open to persons not employed by Clark in a regular full time position at the time of applications, including: those in temporary or provisional classifications; those in classifications not subject to competitive examinations by the Department of Personnel; and those open to competitive examination, except

for promotional examinations (those limited by Department of Personnel regulations to applicants from the lower rank or job classification in the municipal department or agency of Clark), the following data with regard to each applicant, which data shall be separately maintained: name, mailing address, and if different address of resident, telephone number, date of application, how applicant became aware of the employment opportunity, and, if tested, the date(s) of the test(s) administered, the test results (fail/pass, rank), reason for selection or non-selection, and assignment (if hired). The race and national origin of each applicant shall also be identified, and any record of same shall be maintained separately from the application and other materials from which decisions on eligibility and selection are made.

- d. Clark shall send copies of records it maintains to counsel for the plaintiffs within ten (10) days of a written request, provided however, that such requests will not be so frequent or burdensome so as to be unreasonable. In addition, plaintiffs may inspect and copy such records upon reasonable notice and written request. If Clark determines in good faith that such records contain confidential employee information, it may redact such information from copies provided to plaintiff and may withhold it unless this Court, upon plaintiff's application orders otherwise.

11. For test or other selection procedure which it uses in the hiring or other selection of employees, Clark shall maintain documentation of the impact that the test or other selection procedure has on blacks and other minorities. If Clark believes the test to be valid or otherwise shown to be job related, it shall maintain documentation of validity or other job relatedness in accordance with the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. 1607, or amendments thereto. For tests or other procedures which the New Jersey Department of Personnel administers for use by Clark, Clark shall request the Department of Personnel to maintain such documentation, and shall request copies thereof, upon request from counsel for plaintiffs.

12. On or before March 1, 1994, Clark shall provide to counsel for the plaintiffs a list of municipal employees, as of December 1, 1993, specifying each salaried and hourly employment category in each department and specifying separately those categories filled by regular full time employees, and those filled by part time, temporary and other employees. For each employment category in each department, the list shall further specify the number of persons, by race, employed by Clark in each category as of December 1, 1993. On June 1 and December 1 of each year in which this Stipulation is in effect, Clark shall provide to counsel for the plaintiffs a report, in the format appended hereto, showing for the six month reporting period ending April 30, or October 31, the following:

- a. a summary, showing for the defendant as a whole, and for each salaried and hourly job category (whether classified or non-classified), by department: the number of persons by race and national origin, employed at the end of the reporting period;
- b. the number of persons, by race and national origin applying for employment in each job category within each department during the reporting period, the number of persons by race and national origin taking each examination administered during the reporting period, the number of persons by race and national origin who pass each examination;
- c. a list of all persons hired and/or appointed during the reporting period, showing for each: name, residence, race, national origin, job category and department, date of hire, whether the position is full time or part time, whether the person is a permanent, provisional or temporary employee, and whether the position was filled by open competitive or promotional examination, by provisional appointment pending examination, or by selection procedures administered directly by Clark, and the nature of such procedures;
- d. a list of all persons terminated during the reporting period, showing for each: name, race, national origin, job category, department, permanent, provisional, temporary or probationary status, reason for termination, and, if the termination was appealed, basis for the appeal; and

- e. a detailed report of the implementation of the recruiting program including a separate listing for each vacancy filled or eligibility list created during the reporting period showing: each newspaper, radio station and location where the notice of vacancy or of examination was published, broadcast, or posted, and the dates of such publication, broadcasting and/or posting.

Implementation and Compliance

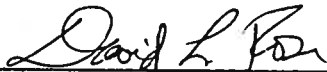
13. No later than March 1, 1994, the Township shall pay to counsel for the plaintiffs the sum of \$4,149.00 in attorneys fees and expenses incurred by plaintiffs in the investigation and prosecution of this action. The parties agree that this amount constitutes payment in full for all attorneys fees and expenses incurred by plaintiffs in the prosecution of this action through the date of this Stipulation.

14. If either party to this Stipulation believes that the Stipulation has been violated or that it is about to be violated or that the party shall give reasonable written notice to counsel for the other side, and shall make good faith efforts to resolve the dispute by discussion and settlement. If those efforts are unsuccessful, that party may bring the matter to this Court by motion.

15. This Stipulation shall be in full force and effect because Clark has amended its present Municipal Code as contemplated by paragraph 2 above on January 12, 1994.

16. This Stipulation may be terminated five years after its entry, upon a determination by the United States District Court of a showing of substantial compliance and that the purposes of the Stipulation have been attained.

Done this 28th day of February, 1994.



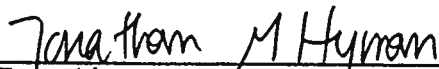
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