

1 Anna Y. Park, SBN 164242
 2 anna.park@eeoc.gov
 3 Nakkisa Akhavan, SBN 236260
 4 nakkisa.akhavan@eeoc.gov
 5 Andrea E. Ringer, SBN 307315
 6 andrea.ringer@eeoc.gov
 7 Taylor Markey, SBN 319557
 8 taylor.markey@eeoc.gov
 9 U.S. EQUAL EMPLOYMENT
 10 OPPORTUNITY COMMISSION
 11 255 East Temple Street, Fourth Floor
 12 Los Angeles, CA 90012
 13 Telephone: (213)785-3080
 14 Facsimile: (213) 894-1301

JS-6

11 Attorneys for Plaintiff
 12 U.S. EQUAL EMPLOYMENT
 13 OPPORTUNITY COMMISSION

14 **UNITED STATES DISTRICT COURT**
 15 **CENTRAL DISTRICT OF CALIFORNIA**

17 U.S. EQUAL EMPLOYMENT
 18 OPPORTUNITY COMMISSION,
 19
 20 Plaintiff,
 21
 22 vs.
 23 KIMCO STAFFING SERVICES, INC.,
 24 RYDER INTEGRATED LOGISTICS,
 25 INC.,
 26 Defendants.

} Case No.: 5:19-cv-01838 JFW (SPx)
 }
 } **CONSENT DECREE RE:**
 } **DEFENDANT KIMCO STAFFING**
 } **SERVICES, INC.; ORDER**

1 I.

2 **INTRODUCTION**

3 Plaintiff U.S. Equal Employment Opportunity Commission (“EEOC” or
4 “Plaintiff”) and Defendant Kimco Staffing Services, Inc. (“Defendant Kimco”)
5 (collectively, the “Parties”) hereby stipulate and agree to entry of this Consent
6 Decree (the “Decree”) to fully and finally resolve Plaintiff’s complaint against
7 Defendant Kimco in *U.S. Equal Employment Opportunity Commission v. Kimco*
8 *Staffing Services, Inc. and Ryder Integrated Logistics, Inc.*; Case No. 5:19-cv-
9 01838 (the “Action”). On September 25, 2019, Plaintiff filed this Action in the
10 United States District Court, Central District of California, for violations of Title
11 VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991
12 (“Title VII”). The Action alleged that Defendant Ryder Integrated Logistics, Inc.
13 and Defendant Kimco (collectively, “Defendants”) subjected Charging Party
14 Regina Fisher (“Charging Party”) and a class of similarly situated Black employees
15 to discrimination based on race and retaliation. Defendant Kimco denies any
16 violation of the applicable laws and states that it did not harass, discriminate or
17 retaliate against Charging Party or a purported class of similarly situated Black
18 employees.

19 II.

20 **PURPOSES AND SCOPE OF THE CONSENT DECREE**

21 The Parties agree that this Action should be fully and completely resolved
22 by entry of this Consent Decree. The Decree is made and entered into by and
23 between the EEOC and Defendant Kimco and shall be binding on and enforceable
24 against Defendant Kimco, as well as its parents, subsidiaries, agents, successors
25 and assigns, during the duration of this decree. The scope of this Decree is
26 companywide, unless otherwise noted. The Parties have entered into this Decree
27 for the following purposes:

- 28 1. To provide appropriate monetary and injunctive relief;

- 1 2. To ensure Defendant Kimco’s employment policies, practices, and
2 procedures comply with Title VII;
- 3 3. To ensure that Defendant Kimco maintains a work environment free from
4 race discrimination and retaliation;
- 5 4. To modify Defendant Kimco’s policies, procedures, and practices to prevent
6 and/or correct race discrimination and retaliation;
- 7 5. To ensure Defendant Kimco’s employees, recruiters, supervisors, and human
8 resources personnel are trained with respect to their obligations regarding racial
9 harassment, discrimination, and retaliation under Title VII;
- 10 6. To provide an appropriate and effective mechanism for handling complaints
11 of racial harassment, discrimination, and retaliation;
- 12 7. To ensure appropriate record keeping, reporting, and monitoring; and
- 13 8. To avoid the expense and uncertainty of further litigation.

14 This Decree shall not be construed as an admission by Defendant Kimco of
15 any discriminatory, harassing, or retaliatory conduct. For the purpose of amicably
16 resolving disputed claims, the Parties jointly request this Court to adjudge as
17 follows:

18 **III.**

19 **RELEASE OF CLAIMS**

- 20 A. This Decree fully and completely resolves all issues, claims, and allegations
21 raised by the EEOC against Defendant Kimco in this Action, including EEOC
22 Charge Nos. 480-2017-00658 and 480-2019-03052.
- 23 B. Nothing in this Decree shall be construed to limit or reduce Defendant
24 Kimco’s obligation to comply fully with Title VII or any other federal employment
25 statute.
- 26 C. Nothing in this Decree shall be construed to preclude the EEOC from
27 bringing suit to enforce this Decree in the event that any party fails to perform the
28 promises and representations contained herein.

1 D. This Decree in no way affects the EEOC’s right to bring, process,
2 investigate or litigate other charges that may be in existence or may later arise
3 against Defendant Kimco in accordance with standard EEOC procedures.

4 **IV.**

5 **JURISDICTION**

6 A. The Court has jurisdiction over the Parties and the subject matter of this
7 litigation. The Action asserts claims that, if proven, would authorize the Court to
8 grant the equitable relief set forth in this Decree.

9 B. The terms and provisions of this Decree are fair, reasonable and just.

10 C. This Decree conforms with the Federal Rules of Civil Procedure and Title
11 VII and is not in derogation of the rights or privileges of any person.

12 D. The Court shall retain jurisdiction of this Action during the duration of the
13 Decree for the purposes of entering all orders, judgments, and decrees that may be
14 necessary to implement the relief provided herein.

15 **V.**

16 **EFFECTIVE DATE AND DURATION OF DECREE**

17 A. The provisions and agreements contained herein are effective immediately
18 upon the date which this Decree is entered by the Court (the “Effective Date”).

19 B. Except as otherwise provided herein, this Decree shall remain in effect for
20 two (2) years after the Effective Date.

21 **VI.**

22 **MODIFICATION AND SEVERABILITY**

23 A. This Decree constitutes the complete understanding of the Parties with
24 respect to the matters contained herein.

25 B. No waiver, modification or amendment of any provision of this Decree will
26 be effective unless made in writing and signed by an authorized representative of
27 each of the Parties.

28 C. If one or more provisions of the Decree are rendered unlawful or

1 unenforceable, the Parties shall make good faith efforts to agree upon appropriate
2 amendments in order to effectuate the purposes of the Decree. In any event, the
3 remaining provisions will remain in full force and effect unless the purposes of the
4 Decree cannot, despite the Parties' best efforts, be achieved.

5 D. By mutual agreement of the Parties, this Decree may be amended or
6 modified in the interests of justice and fairness in order to effectuate the provisions
7 herein.

8 **VII.**

9 **COMPLIANCE AND DISPUTE RESOLUTION**

10 A. If the EEOC has reason to believe that Defendant Kimco has failed to
11 comply with any provision of this Decree, the EEOC may bring an action before
12 this court to enforce the Decree. Prior to initiating such action, the EEOC will
13 notify Defendant Kimco in writing of the nature of the dispute.

14 B. Unless the EEOC believes that delay will cause irreparable harm,
15 Defendant Kimco will have thirty (30) days from the date of receipt of the written
16 notice to attempt to resolve or cure the breach. If those thirty (30) days pass
17 without resolution, the EEOC may petition this Court for all available relief,
18 including an extension of the term of the Decree, costs incurred in securing
19 compliance with the Decree and/or any other relief the court deems appropriate.

20 C. The Parties agree to cooperate with each other and use their best
21 efforts to resolve any dispute referenced in the EEOC's notice.

22 D. In the event of non-payment of monies under this Decree, Defendant
23 Kimco will have five (5) days from receipt of written notice to cure the breach.
24 The aforementioned thirty (30) days meet and confer requirement does not apply to
25 non-payment of funds. If Defendant Kimco does not cure its monetary breach
26 within five (5) days of receiving written notice of such breach, the EEOC may
27 initiate an enforcement action before this Court to enforce the Decree.

28 //

1 **VIII.**

2 **MONETARY RELIEF**

3 A. Establishing the Class Fund

4 1. In settlement of this lawsuit, Defendant Kimco shall pay a total gross
5 sum of \$1,000,000.00 in monetary relief (“Total Settlement Amount”). Within
6 thirty (30) days of the Effective Date of this Decree, Defendant Kimco shall
7 deposit the Total Settlement Amount into an escrow account (the “Kimco Class
8 Fund”) and provide the EEOC with written verification of the funding within ten
9 (10) days of the deposit.

10 2. The Class Fund shall be used to make payments to the Charging Party
11 and Eligible Claimants identified by the EEOC (“Claimants”) before or after the
12 Effective Date. The EEOC shall retain sole discretion to determine who is an
13 Eligible Claimant and the amounts to be distributed to Charging Party and each
14 Eligible Claimant from the Class Fund.

15 3. The EEOC shall determine who is eligible to be a Claimant based on
16 the EEOC’s assessment of their facts and damages under Title VII. Defendant
17 Kimco agrees that the EEOC’s determination of these issues is final, and
18 Defendant Kimco will neither participate in, nor object to, those determinations.

19 B. Claims Administrator

20 Within thirty (30) days of the Effective Date, Defendant Kimco shall hire
21 and appoint a specific qualified individual or organization (“Claims
22 Administrator”), approved by the EEOC, to oversee the Claims Process. If the
23 Claims Administrator initially appointed thereafter declines to serve or to carry out
24 its duties under this Decree, Defendant Kimco shall have ten (10) business days to
25 notify the EEOC in writing of the need for a replacement Claims Administrator.
26 Defendant Kimco shall pay all costs associated with the selection and retention of
27 the Claims Administrator as well as the performance of the Claims Administrator’s
28 duties under this Decree.

1 C. Claims Process

2 1. *List of Potential Kimco Claimants.* Within thirty (30) days of the
3 Effective Date, Defendant Kimco shall forward to the Claims Administrator and
4 the EEOC the name, race identification, last known mailing address, phone
5 number, and email address, dates of employment, and any forwarding employment
6 information of each employee who worked for Defendant Kimco and Defendant
7 Ryder at any point between May 2016 and the Effective Date (“List of Potential
8 Claimants”).

9 2. *Claims Notice.* Within forty-five (45) days of the Effective Date, the
10 Claims Administrator shall send a Claims Notice, approved by the EEOC, via
11 electronic and U.S. mail to the individuals included on the List of Potential
12 Claimants. The Claims Notice shall explain that the EEOC shall determine
13 eligibility and monetary relief amounts after receipt of a Claims Questionnaire, and
14 that Claimants may be eligible for reinstatement. The Claims Notice shall provide
15 phone and email contact information for the Claims Administrator and explain how
16 Potential Claimants can access and submit the Claims Questionnaire.

17 3. *Undeliverable Mailings.* For letters returned as undeliverable, within
18 twenty (20) days of the Claims Notice being returned to sender as undeliverable,
19 the Claims Administrator shall conduct database searches using Accurint or a
20 similar system to find the Potential Claimant’s most recent contact information,
21 including phone number, email address and mailing address. If the Claims
22 Administrator finds more recent contact information, the Claims Administrator
23 shall resend the Claims Notice to the new address. If the Claims Administrator
24 fails to find a more recent mailing address, the Claims Administrator shall notify
25 the EEOC and describe its efforts to locate such employee(s).

26 4. *Website and Claims Questionnaire.* Within forty-five (45) days of the
27 Effective Date, the Claims Administrator shall establish a website that provides
28 information regarding the Decree, the Claims Process, and how to complete the

1 Claims Questionnaire. The website shall include an embedded Claims
2 Questionnaire, approved by the EEOC. The Claims Questionnaire shall also be
3 available for download by Potential Claimants, as well as in paper form upon
4 request by the EEOC or the Potential Claimant. The website shall include phone,
5 mail and email contact information for the Claims Administrator and the EEOC.
6 The website shall also explain how Potential Claimants can seek assistance in
7 completing the Claims Questionnaire. The Claims Administrator shall provide the
8 EEOC with electronic access to the Claims Questionnaires filed online. The
9 Claims Administrator shall provide the EEOC with an electronic and paper copy of
10 all questionnaires submitted within ten (10) days of receipt.

11 D. Claims Distribution Procedure

12 1. *Distribution List.* The EEOC shall provide Defendant Kimco one or
13 more lists of the Claimants by name, their current addresses, the amount to be paid
14 to each, the characterization of such amounts to be paid, and any additional
15 relevant identifying information (“Distribution List”). The Claimants will be sent
16 a Release (attached hereto as Exhibit A) by the Claims Administrator. Upon
17 receipt of both documents, the Claims Administrator shall send via certified mail a
18 check for the full amount specified by the EEOC to each eligible Claimant. Within
19 three (3) business days of issuance of settlement checks, Defendant Kimco shall
20 submit copies and any related correspondence to the EEOC. All funds remaining at
21 the expiration of this Decree shall be distributed according to a Final Distribution
22 List provided by the EEOC.

23 2. *Characterization of Payments.* The EEOC has the sole discretion to
24 characterize the monetary relief amount to each Claimant as wage or non-wage
25 compensation. Defendant Kimco shall issue a Form 1099 to each Claimant in the
26 amount of his/her non-wage monetary relief. No tax withholdings shall be made.
27 If the EEOC designates monetary relief as wages, Defendant Kimco shall issue an
28 IRS Form W-2 to each applicable Claimant. Defendant Kimco shall pay the

1 employer's portion of all deductions required by law, including but not limited to
2 FICA and FUTA taxes, which shall not be deducted from payment of the monetary
3 settlement amount(s) to Claimants. Defendant Kimco shall make all appropriate
4 reports to the Internal Revenue Service and other tax authorities. Within three (3)
5 business days of issuance of the aforementioned tax forms, Defendant Kimco shall
6 submit copies and any related correspondence to the EEOC.

7 3. *Non-Negotiated Checks.* On a quarterly basis throughout the duration
8 of this Decree, Defendant Kimco shall provide the EEOC with a copy of each
9 cancelled check, and identify any check not negotiated and/or returned non-
10 negotiated, to enable the Parties to track remaining settlement funds for
11 redistribution. Defendant Kimco shall reissue checks if necessary.

12 4. *Remaining Funds.* On a quarterly basis throughout the duration of
13 this Decree, Defendant Kimco will notify the EEOC of the remaining amount
14 available out of the Kimco Class Fund.

15 **IX.**

16 **CLAIMANT SPECIFIC INJUNCTIVE RELIEF**

17 A. References for Charging Party

18 Within twenty-one (21) days of the Effective Date, Defendant Kimco shall:

19 1. remove from the personnel file for Charging Party any references to
20 the charges of discrimination filed against Defendants or Charging Party's
21 participation in this Action;

22 2. remove from Defendant Kimco's files any reference to discipline of
23 Charging Party or her "termination" for "performance";

24 3. to the extent that Defendant Kimco must keep records of the charges
25 of discrimination or in order to effectuate this Decree, such records must be
26 maintained separately from Charging Party's personnel files;

27 4. refrain from providing negative references about Charging Party, and
28 direct all reference inquiries to a Human Resources ("HR") representative, who

1 will provide a neutral employment reference, limited to verifying whether
2 Charging Party was employed by Defendants, the last position in which Charging
3 Party was employed, and the duration of employment with Defendants;

4 5. ensure that Charging Party is not prohibited from re-employment with
5 Defendant Kimco.

6 B. References for Claimants

7 Within ten (10) days of receipt of a Distribution List, Defendant Kimco
8 shall:

9 1. remove from the personnel file for any Claimant any references to the
10 Claimant's participation in this Action;

11 2. to the extent that Defendant Kimco must keep records in order to
12 effectuate this Decree, such records must be maintained separately from
13 Claimants' personnel files;

14 3. remove from Defendant Kimco's files any reference to any discipline
15 of Claimants or "termination" for "performance";

16 4. refrain from providing negative references about any Claimant, and
17 direct all reference inquiries to a Human Resources ("HR") representative, who
18 will provide a neutral employment reference, limited to verifying whether a
19 Claimant was employed by Defendants, the last position in which the Claimant
20 was employed, and the duration of employment with Defendants;

21 5. to the extent that a Claimant continues to work for Defendant Kimco,
22 ensure that the Claimant does not suffer discrimination, harassment, or retaliation;
23 and

24 6. ensure that Claimants are not prohibited from re-employment with
25 Defendant Kimco. Should Claimants reapply for employment, Defendant Kimco
26 may refuse to rehire them only for legitimate, non-discriminatory and non-
27 retaliatory reasons.

28 C. Re-Placement of Temporary Workers

1 B. Anti-Retaliation

2 Defendant Kimco, its officers, agents, management (including all
3 supervisory employees), successors, assigns, are hereby enjoined from
4 implementing or permitting any action, policy or practice that subjects any current
5 or former employee or applicant of Defendant Kimco to retaliation, because he or
6 she has in the past, or during the term of this Decree:

- 7 1. Opposed any practice made unlawful under Title VII;
- 8 2. Filed a charge of discrimination alleging such practice;
- 9 3. Testified or participated in any manner in an internal or external
10 investigation or proceeding relating to this case or any claim of a violation of Title
11 VII;
- 12 4. Was identified as a Potential Claimant or witness in this Action;
- 13 5. Asserted any right under this Decree; or
- 14 6. Sought and/or received any relief in accordance with this Decree.

15 Defendant Kimco shall take prompt corrective action to address any such
16 retaliation of which it has actual or constructive knowledge taking place at entities
17 subcontracted to or in active concert or participation with Defendant Kimco.

18 **XI.**

19 **SPECIFIC INJUNCTIVE RELIEF**

20 A. Equal Employment Opportunity Monitor

21 Within thirty (30) days after the Effective Date, Defendant Kimco shall
22 retain a third-party Equal Employment Opportunity Monitor ("Monitor"), approved
23 by the EEOC, who has demonstrated experience in the areas of preventing and
24 combatting racial discrimination and harassment and who is bilingual in Spanish
25 and English. The Monitor shall monitor Defendant Kimco's compliance with Title
26 VII, and the provisions of this Decree. Defendant Kimco shall bear all costs
27 associated with the selection and retention of the Monitor and the performance of
28 his/her duties. If the Monitor must be replaced during the duration of the Decree,

1 Defendant Kimco shall propose a new designee subject to EEOC's approval. The
2 Monitor's responsibilities shall include:

3 1. Conducting audits and complaint reviews under Section XI.B, to
4 determine whether race-based harassment, discrimination or retaliation exists;

5 2. Tracking and evaluating all information received by Defendant Kimco
6 regarding alleged discriminatory, harassing, or retaliatory conduct, reviewing
7 documents relating to complaints of discrimination, harassment or retaliation, and
8 any documents related to the investigation or resolution to ensure that Defendant
9 Kimco is responding to complaints and conducting a prompt, thorough and
10 impartial investigation in coordination with the placement employer;

11 3. Assisting Defendant Kimco with the creation of a complaint log under
12 Section XI.F, and providing feedback to Defendant Kimco regarding its
13 implementation of the Internal Complaint Procedure under Section XI.D and the
14 Hotline under Section XI.J, specifically with regard to documenting and
15 investigation of complaints of race discrimination, race harassment and retaliation
16 to ensure compliance with Title VII and this Decree;

17 4. Assisting Defendant Kimco to ensure that Defendant Kimco's policies
18 and procedures relating to race discrimination, harassment, and retaliation fully
19 comply with Title VII and all terms set forth in the Decree, as described in Section
20 XI.C;

21 5. Consulting with Defendant Kimco in the creation and implementation
22 of the training curriculum under Section XI.E, including reviewing evaluation
23 forms submitted;

24 6. Ensuring that Defendant Kimco's trainings are effective, especially
25 with respect to training of managers, recruiters, and human resources employees,
26 by reviewing evaluation forms submitted during Compliance Trainings, attending
27 the Management and Human Resources Training, and providing guidance or
28 feedback if additional training is needed to ensure prompt, effective and impartial

1 complaint investigations;

2 7. At least quarterly through the term of the Decree, reviewing the
3 complaint log and underlying documentation for complaints of racial
4 discrimination, racial harassment or retaliation, and reporting findings to the EEOC
5 in the semi-annual report;

6 8. Working with Defendant Kimco to develop protocols to ensure that
7 there are proper mechanisms for handling complaints raised by workers placed at
8 placement employers and reporting on Defendant Kimco's compliance with the
9 obligations described in Section X.I;

10 9. Preparing a semi-annual report and exit report to EEOC on Defendant
11 Kimco's progress and compliance under this Decree pursuant to Section XI.L;

12 10. Ensuring that Defendant Kimco's reports required by this Decree are
13 accurately compiled and timely submitted;

14 11. Monitoring and ensuring the retention and maintenance of any
15 documents or records required by this Decree under Section XI.K;

16 12. Monitoring and ensuring the distribution of any documents and Notice
17 Posting as required by this Decree; and

18 13. Otherwise ensuring Defendant Kimco's compliance with this Decree
19 and Title VII.

20 B. EEO Compliance Audits

21 1. *Complaint Audits.* The Monitor shall review the Complaint Log
22 described in Section XI.F on a monthly basis, at a minimum, and report back in the
23 semi-annual report regarding Defendant Kimco's implementation of the Complaint
24 Log. The Monitor shall have access to all records and call logs regarding
25 complaints of race harassment, discrimination, or retaliation. The Monitor shall, at
26 a minimum, review all complaints and the investigative actions taken with respect
27 to those complaints where the allegations involve race harassment, discrimination,
28 or retaliation. The Monitor shall assess whether Defendant Kimco has responded

1 to these complaints by conducting a prompt, thorough, and impartial investigation,
2 in coordination with the placement employer, and report back to the EEOC in its
3 semi-annual report.

4 2. *Audit Reports.* The results of all audits and complaint reviews shall
5 be submitted to the EEOC in the semi-annual report set forth below. The Monitor’s
6 semi-annual report shall include assessments and recommendations for remedying
7 all identified issues with race discrimination, harassment, or retaliation.

8 C. Policies and Procedures

9 1. *Scope.* Defendant Kimco shall implement the policies set out in
10 Section XI.C and XI.D to apply to all of its employees.

11 2. *Revision of Policies and Procedures*

12 Within sixty (60) days of the Effective Date, Defendant Kimco, with the
13 assistance of the Monitor, shall create and implement policies and procedures that
14 explain, define, and prohibit discrimination in the terms and conditions of
15 employment including but not limited to hiring, firing, and promoting employees,
16 and harassment and retaliation on the basis of race. Defendant Kimco’s policies
17 and procedures shall also address compliance with Title VII, including prevention
18 of racial discrimination and harassment, methods for quickly and effectively
19 responding to racial discrimination and harassment, and a zero-tolerance policy for
20 those found to have engaged in racial discrimination, racial harassment, or
21 retaliation.

22 The revised Policies and Procedures shall be written in a clear, easy to
23 understand style and format, in language(s) commonly spoken by Defendant
24 Kimco’s employees, be written at a middle-school reading level, and printed in
25 legible font size of no less than 12-pt font.

26 At all times, the revised Policies and Procedures shall, at a minimum,
27 include:

- 28 (a) a strong and clear commitment to a workplace free of race

1 discrimination, harassment and retaliation;

2 (b) a clear and comprehensive description of race discrimination, race
3 harassment, and retaliation, including a discussion of the meaning of the phrase
4 “hostile work environment” and “retaliation” under Title VII with examples of
5 prohibited conduct, including conduct which, if left unchecked, may rise to the
6 level of unlawful harassment or discrimination;

7 (c) assurance that Defendant Kimco shall hold all employees, including
8 managers, recruiters, human resources employees, and employees of the placement
9 employer accountable for engaging in conduct prohibited under Title VII or this
10 Decree, including but not limited to race discrimination, harassment, retaliation,
11 and for failing to take prompt appropriate action upon receiving information
12 regarding race discrimination, harassment, or retaliation in the workplace, and a
13 description of the consequences for those that fail to adhere to reporting steps;

14 (d) assurance that persons who complain about discrimination or harassment
15 they experienced or witnessed and persons who provide information relating to
16 such complaints will not be subject to retaliation;

17 (e) a statement that the revised Policies and Procedures apply to all persons,
18 including managers, supervisors, recruiters, employees and managers of placement
19 employers, third parties, customers, and Human Resources employees; and

20 (f) an Internal Complaint Procedure, as described in Section XI.D.

21 Defendant Kimco shall submit to EEOC any revisions to Policies and
22 Procedures to prevent and correct racial discrimination, racial harassment, and
23 retaliation ninety (90) days prior to the proposed change.

24 3. *Distribution of Revised Policies and Procedures*

25 Defendant Kimco shall distribute its revised Policies and Procedures to all
26 employees, regardless of their direct employer via e-mail, within one-hundred and
27 twenty (120) days of the Effective Date by (a) posting copies in clearly visible
28 areas within Defendant Kimco’s offices; and (b) providing copies to each current

1 employee by mailing a paper copy to their personal mailing address and sending an
2 electronic copy to their personal email address. Defendant Kimco shall distribute
3 its revised Policies and Procedures to all employees in language(s) commonly used
4 by them. For employees hired after the Effective Date, Defendant Kimco shall
5 provide a paper and electronic copy of the revised Policies and Procedures within
6 five (5) days of their hire date, during the onboarding process. Each employee
7 shall sign a form acknowledging receipt of the revised Policies and Procedures.
8 The revised Policies and Procedures shall be disseminated via electronic mail on a
9 semi-annual basis. On a semi-annual basis throughout the term of the Decree,
10 Defendant Kimco shall provide a statement confirming distribution of the revised
11 Policies and Procedures to all employees.

12 D. Internal Complaint Procedure

13 The Internal Complaint Procedure shall be written in the language(s)
14 commonly used by the temporary and permanent employees and shall incorporate
15 the following elements:

16 1. A clearly described process for submitting complaints of racial
17 harassment or discrimination that includes multiple avenues for employees to
18 lodge complaints of harassment, discrimination, or retaliation verbally or in
19 writing, including (a) a direct toll-free phone number and email address for
20 Defendant Kimco's Human Resources Department; (b) a toll-free complaint
21 hotline that Defendant Kimco will track; and (c) notifying *any* Kimco recruiter,
22 manager, or Human Resources representative;

23 2. A clearly described process for a prompt, thorough, and impartial
24 investigation of all complaints of discrimination, harassment or retaliation by
25 Defendant Kimco, including (a) interviewing all relevant witnesses, including the
26 complainant and employees of both Defendant Kimco and the placement
27 employer; (b) review of all relevant evidence; and (c) creation of written
28 investigative reports that document all investigatory steps, any findings and

1 conclusions, and any actions taken, and including all complaints, notes of
2 interviews and other relevant evidence;

3 3. Assurance that no complainant shall be required to confront his or her
4 accuser and that the confidentiality of the complaint, complainant and investigation
5 shall be kept to the fullest extent possible;

6 4. Tracking and collection of all complaints of discrimination,
7 harassment, and retaliation in the Complaint Log;

8 5. Resolution of all complaints of discrimination, harassment, and
9 retaliation, by Defendant Kimco, in a timely and effective manner;

10 6. A clear requirement that Defendant Kimco, specifically Defendant
11 Kimco's recruiters, managers, or human resource personnel, review any decision
12 or determination made by the placement employer regarding a complaint of
13 discrimination made by an employee of Defendant Kimco, including written
14 communications regarding the decision, the reasons for the decision, and any
15 remedial action taken;

16 7. A clear explanation of Defendant Kimco's duty to conduct a follow-
17 up meeting with the employee to evaluate the continued effectiveness of any step
18 taken by Defendant Kimco to remedy any racial harassment or discrimination;

19 8. A requirement that any employee in a recruiter, supervisor, or Human
20 Resources position document and report any and all observations or complaints of
21 potential racial harassment, discrimination, or retaliation to Defendant Kimco's
22 Human Resources Department and the Human Resources Department of the
23 placement employer within forty-eight (48) hours, and that failure to carry out this
24 duty is grounds for disciplinary action, up to and including immediate discharge;

25 9. An explanation that the internal complaint procedure does not replace
26 the right of any employee to file a charge or complaint of discrimination,
27 harassment or retaliation under any available municipal, state, or federal law, and
28 that filing an internal complaint does not relieve the complainant of meeting any

1 deadline for filing a charge of discrimination. The procedures shall provide
2 contact information for EEOC and state and local Fair Employment Practice (FEP)
3 agencies; and

4 10. Publication of the EEOC complaint line of (800) 669-4000.

5 The Monitor shall review Defendant Kimco's application of the internal
6 complaint procedure by monitoring complaints regarding race harassment,
7 discrimination or retaliation and reporting back to the EEOC in its semi-annual
8 report.

9 E. Training

10 1. *Scope of Training Requirements.*

11 Unless otherwise noted, Defendant Kimco shall implement the training
12 regimen set out in Section XI.E with respect to all employees, whether working
13 directly for Defendant Kimco or placed with a placement employer.

14 2. *All Trainings.*

15 a. All trainings described below shall be mandatory for the
16 duration of the Decree. All persons shall verify their attendance in writing.
17 Defendant Kimco shall maintain copies of training sign-in sheets for the duration
18 of the Decree.

19 b. All trainings provided to Defendant's direct employees
20 pursuant to this Decree shall be live and interactive. Trainings provided to
21 Defendant's temporary employees shall be live, online or via recording and
22 include interactive elements. Defendant Kimco shall work with the Monitor to
23 develop the training curriculum. Examples shall be given of prohibited conduct.
24 Defendant Kimco shall leave time for question and answer at the conclusion of the
25 training. All trainings and training materials shall be provided in language(s)
26 commonly understood by Defendant's employees.

27 c. Defendant Kimco shall begin each training with a statement or
28 short video from a senior executive emphasizing that harassment prevention,

1 civility, and maintaining a respectful workplace are high priorities for Defendant
2 Kimco, and that the training is an important component of Defendant Kimco's
3 strategy for harassment prevention. The message shall include a commitment
4 towards accountability to and safety of its workforce. The message shall be
5 provided in language(s) commonly understood by Defendant Kimco's employees.

6 d. Within forty-five (45) days after the Effective Date, Defendant
7 Kimco shall submit to the Monitor the identity and qualifications of the qualified
8 trainer selected, a description of the trainings to be provided along with the
9 training materials, and an outline of the training curriculum. The trainer must
10 speak fluently a language that Defendant Kimco's employees understand. Upon
11 receipt, the the Monitor may provide comment within thirty (30) days regarding
12 any necessary revisions to the training. Defendant shall work with the Monitor on
13 the most effective way to deliver the training which may include training internal
14 employees to conduct the training.

15 e. The trainings in Sections XI.E.4 and XI.E.5 shall occur within
16 ninety (90) days of the Effective Date, and thereafter on an annual basis. When
17 scheduling each live training, Defendant Kimco shall also schedule an alternative
18 training session within thirty (30) days of the initial training that is either (a) live
19 and interactive; or (b) a video recording of the live training plus an interactive
20 component. Within thirty (30) days of the hire date of any employee hired after
21 the required training, Defendant Kimco shall provide an alternative training
22 session that is either (a) live and interactive; or (b) a video recording of the live
23 training with an interactive component. All employees will be paid their normal
24 rate of pay during the trainings.

25 f. Defendant Kimco shall give the EEOC and the Monitor a
26 minimum of fifteen (15) business days advance written notice of the date, time
27 and location of each training provided pursuant to this Decree. An EEOC
28 representative or the Monitor may attend any such training upon request by the

1 EEOC or the Monitor. The EEOC and the Monitor may also review training
2 materials proposed and/or used upon request.

3 3. *New Employee Orientation*

4 Defendant Kimco shall provide an oral orientation (“Orientation”) to all new
5 employees within five (5) days of their hire date. The Orientation shall emphasize
6 that (a) Defendant Kimco is committed to ensuring that its workplace is free of
7 discrimination, harassment and retaliation, especially based on race; (b) that
8 Defendant Kimco takes seriously all allegations of discrimination, harassment and
9 retaliation and encourages employees to notify both Defendant Kimco’s Human
10 Resources Department and the placement employer when they become aware of
11 potentially discriminatory, harassing and/or retaliatory conduct; and (c) that
12 Defendant Kimco will take prompt and proportionate corrective action in response
13 to discrimination, harassment and retaliation in the workplace. The Orientation
14 shall briefly review Defendant Kimco’s complaint procedures, and explain where
15 employees can find additional information, including the appropriate contact
16 information.

17 4. *Compliance Training for All Employees*

18 All employees shall be required to attend an online Compliance Training
19 lasting at least one (1) hour in duration. The training under this section shall
20 cover:

21 (a) the role and purpose of Title VII, including what constitutes unlawful
22 race discrimination, a hostile work environment based on race, and retaliation;

23 (b) the rights and responsibilities under Title VII and this Decree of
24 temporary and permanent employees, staffing agencies, and employers if they
25 experience, observe, or become aware of conduct that they believe may be
26 harassing, discriminatory, or retaliatory;

27 (c) preventing harassment, including racial harassment, stopping bullying,
28 bystander intervention, and having respect for diversity in the workplace including

1 a discussion of appropriate and inappropriate language as it relates to race; and

2 (d) Defendant Kimco's revised Policies and Procedures as outlined in
3 Section XI.C and the Internal Complaint Procedure in Section XI.D.

4 The training shall emphasize Defendant Kimco's commitment to ensuring a
5 workplace free of discrimination, harassment or discrimination and encourage
6 employees that experience or witness discriminatory, harassing and/or retaliatory
7 conduct to report it. The training shall also emphasize the consequences for
8 employees that engage in prohibited conduct and for managers, recruiters, and
9 human resources employees that fail to notify Defendant Kimco's Human
10 Resources Department and the Human Resources Department of the placement
11 employer upon becoming aware of conduct that may be discriminatory, harassing
12 or retaliatory.

13 Before concluding the training, Defendant Kimco shall provide direct
14 contact information for Defendant Kimco's Human Resources Department, and for
15 the Hotline. Defendant shall also circulate an anonymous evaluation form to be
16 filled out by attendees and provided to the Monitor. The Monitor will review the
17 anonymous evaluation forms and make any appropriate recommendations for
18 subsequent trainings, as well as in its semi-annual report.

19 5. *Management and Human Resources Training*

20 All managers, recruiters, human resources employees, and other personnel
21 with authority to recruit, hire, or place employees or to respond to complaints of
22 discrimination or harassment shall attend a Management and Human Resources
23 Training of at least two (2) hours duration that includes role playing and
24 emphasizes accountability of staffing agencies. The trainings shall be live and
25 interactive. The Trainings shall address the following:

26 a. Title VII prohibitions against race discrimination, harassment,
27 hostile work environment, and retaliation;

28 b. Examples of comments and conduct that alone or together may

1 rise to the level of unlawful race discrimination (including discharge and terms and
2 conditions of employment), harassment (including examples of racial slurs in
3 different languages and derogatory race-based comments), or retaliation;

4 c. Defendant Kimco's obligations under the Decree, as a staffing
5 agency and to its direct employees, and the role of managers, recruiters, and human
6 resources in complying with the Decree;

7 d. Consequences for managers, recruiters, and human resources
8 employees that fail to follow or enforce Defendant Kimco's revised Policies and
9 Procedures or that fail to document and report within 24 hours observations or
10 complaints of potential race discrimination, harassment, or retaliation;

11 e. Consequences for employees that engage in conduct that may
12 be considered race discrimination, harassment, or retaliation;

13 f. Defendant Kimco's Internal Complaint Procedure, and how to
14 respond to, investigate, and resolve complaints of discrimination, harassment or
15 retaliation, including: (1) investigative techniques, and the duty to interview all
16 relevant witnesses, including employees of the placement employer; (2) their duty
17 to report up the chain of command potential discrimination, harassment, and
18 retaliation; (3) the need to thoroughly document harassment and discrimination
19 complaint investigations, including taking and retaining notes of interviews
20 conducted; (4) types of preventative and corrective actions; (5) their duty to ensure
21 that a placement employer undertakes corrective action reasonably calculated to
22 end harassing conduct perpetrated by its employees against Defendant Kimco's
23 employees and reasonably calculated to prevent future harassment against
24 Defendant Kimco's employees, and to protect Defendant Kimco's employees from
25 further harassment where the placement employer fails to take appropriate
26 corrective action; (6) post-investigation procedures for monitoring the work
27 environment; and (7) their duty to monitor and audit any post-complaint or
28 investigation personnel actions regarding complainants and witnesses to ensure

1 absence of retaliation.

2 6. *Verification of Training*

3 All persons required to attend such training shall verify their attendance in
4 writing. Within ninety (90) days of the Effective Date and semi-annually
5 thereafter, Defendant Kimco shall produce to the EEOC and to the Monitor
6 documents verifying the occurrence of all training sessions conducted as required
7 under this Decree, including the written training materials used, a description of
8 the training provided, a list of the individuals who conducted the training, and a list
9 of the names and job titles of attendees at each training session.

10 F. Complaint Log

11 Within thirty (30) days of the Effective Date, Defendant Kimco shall
12 establish a complaint log, in consultation with the Monitor, for centralized tracking
13 of all formal and informal complaints regarding race discrimination, harassment or
14 retaliation and the monitoring of such complaints to prevent retaliation. This
15 system shall be searchable by name of individual(s) and by location(s) of alleged
16 misconduct, and shall contain, for each complaint or investigation of race
17 discrimination, harassment or retaliation, at least the following information:

18 (a) full name, home address, and home telephone number and cell phone
19 number (as applicable) of each complainant and potential aggrieved individual;

20 (b) full name, home address, and telephone number and cell phone number
21 (as applicable) of any persons allegedly involved (including but not limited to those
22 identified as potential perpetrators) in alleged incidents of discrimination or
23 retaliation;

24 (c) a description of how Defendant Kimco learned of the complaint,
25 including whether the complaint was first directed to a placement employer or
26 Defendant Kimco, whether the complaint was first made to a manager, human
27 resources employee, or via the Hotline, and the date the complaint was reported to
28 Defendant Kimco's Human Resources department;

1 (d) the location (including placement employer name) where the alleged
2 misconduct occurred;

3 (e) date each complaint was made and the date that Defendant Kimco or the
4 placement employer provided notice of the complaint;

5 (f) date each investigation began and was completed;

6 (g) type of discrimination or retaliation complained of, reported, or
7 investigated;

8 (h) type of adverse employment action involved (e.g., “harassment,” “failure
9 to hire,” “failure to promote,” “demotion,” “failure to schedule/assign,”
10 “termination,” etc.);

11 (i) name, title, and employer of person(s) who conducted each investigation;

12 (j) description of action taken in response to the charge, complaint, report, or
13 investigation;

14 (k) resolution, or decision made, regarding each complaint made and each
15 investigation conducted, including where such resolutions and/or reports are made
16 by the placement employer or Defendant Kimco; and

17 (l) status of each complaint or investigation reflected in the database (such as
18 “open,” “pending,” “closed,” etc.).

19 Defendant Kimco shall maintain the database throughout the duration of this
20 Decree and shall produce it to EEOC upon EEOC’s request.

21 G. Posting of Notice

22 Within ten (10) business days after the Effective Date and throughout the
23 term of this Decree, Defendant Kimco shall post laminated copies of the Notice
24 attached as Exhibit B in clearly visible locations frequented by employees and
25 applicants in Defendant Kimco’s offices. The Notice shall be printed in legible
26 font and posted in language(s) commonly understood by Defendant Kimco’s
27 employees. If the Notice becomes defaced or illegible, Defendant Kimco shall
28 replace it with a clean copy.

1 H. Performance Evaluations for EEO Compliance

2 Defendant Kimco shall develop, implement, or revise its performance
3 evaluation forms for managers, recruiters, and human resource personnel, to
4 include measures for performance on compliance with Defendant Kimco’s
5 discrimination, harassment and retaliation policy and procedures.

6 Within sixty (60) days of the Effective Date, Defendant Kimco shall
7 implement its revised performance evaluation.

8 I. Relationship with Placement Employers

9 Kimco will ensure that customers for which Kimco provides temporary
10 workers (“placement employers”) have anti-discrimination and anti-retaliation
11 policies and procedures compliant with Section XI.C of this Decree. Kimco shall
12 provide a statement attesting that it has ensured its placement employers have
13 compliant policies and procedures annually during the term of the decree. The
14 Monitor shall report on Kimco’s compliance with this obligation in its semi-annual
15 reports to the EEOC.

16 Kimco will work with the Monitor to develop protocols to ensure that there
17 are proper mechanisms for handling complaints raised by workers placed at
18 placement employers and to ensure that placement employers are informed of
19 complaints of discrimination, harassment, and/or retaliation when raised at their
20 worksites. These protocols will include ongoing communication between Kimco
21 and placement employers regarding such complaints. If complaints involve Kimco
22 employees, then Kimco will investigate such complaints.

23 J. Toll-Free Complaint Hotline

24 Within thirty (30) days of the Effective Date, Defendant Kimco shall ensure
25 that it maintains a Hotline for reporting complaints of discrimination, harassment
26 or retaliation. (“Hotline”) that is compliant with this section. Defendant Kimco
27 shall ensure dissemination of information about the Hotline to all permanent and
28 temporary employees on a semi-annual basis in the language(s) commonly used by

1 them. The Hotline shall be given to all new employees and made clear that the
2 Hotline is accessible online and via telephone, 24-hours per day and is available in
3 language(s) commonly used by Defendant Kimco's employees.

4 The Hotline shall operate seven days per week, 24 hours per day. Defendant
5 Kimco with the Monitor shall ensure that all Hotline inquiries and response times
6 are tracked and logged by Defendant Kimco. Once a complaint is received,
7 Defendant Kimco will contact the complainant within 24 hours, and then follow
8 the Internal Complaint Procedure in Section XI.D. The Monitor shall review and
9 evaluate Defendant Kimco's effectiveness and responsiveness to a Hotline
10 complaint.

11 Defendant Kimco shall distribute information regarding the Hotline to all
12 employees within thirty (30) days by mailing a paper copy to their personal
13 mailing address or sending an electronic copy to their personal email address.
14 Defendant Kimco shall provide the Hotline to employees hired after the Effective
15 Date within five (5) days of their hiring date, during the onboarding process.
16 Defendant Kimco shall have each employee sign a form acknowledging receipt,
17 which shall be written in languages commonly understood by its employees. The
18 Hotline Flyer shall be disseminated via electronic mail on an annual basis.

19 K. Recordkeeping

20 The records to be maintained shall include:

- 21 1. All communications with the Monitor, Claims Administrator and the
22 EEOC;
- 23 2. All documents related to any complaint of race discrimination, race
24 harassment, or retaliation, including documents relating to all investigations or
25 resolutions of any complaints and the identities of all witnesses identified by the
26 complainant and/or through Defendant Kimco's investigation or the placement
27 employer's investigation, and all communications related to the complaint, its
28 investigation, or its resolution;

1 3. All personnel and performance related documents related to any
2 person that files a complaint or otherwise reports race discrimination or
3 harassment;

4 4. All documents generated in connection with the audits conducted by
5 the Monitor under Section XI.B;

6 5. All forms acknowledging employees' receipt of Defendant Kimco's
7 revised Policies and Procedures under Section XI.C;

8 6. All documents verifying the occurrence of all training sessions and
9 names and positions of all attendees, under Section XI.E;

10 7. All evaluation forms created under Section XI.E;

11 8. Monthly copies of the Complaint Log, maintained as required under
12 Section XI.F;

13 9. All documents reflecting the corrective action taken, if any, in
14 response to managers and recruiters that responded appropriately or
15 inappropriately to discriminatory, harassing, or retaliatory conduct under Section
16 XI.H;

17 10. All documents related to Defendant Kimco's obligation to ensure the
18 existence of compliant policies and procedures at each placement employer per
19 Section XI.I;

20 11. All documents generated in connection with the monitoring,
21 counseling and disciplining of employees whom Defendant Kimco determined to
22 have engaged in behavior that may be discriminatory, harassing and/or retaliatory;

23 12. All documents related to compliance with the terms of the Decree;
24 and

25 13. All documents generated in connection with Defendant Kimco's
26 Hotline per Section XI.J.

27 Defendant Kimco shall make the aforementioned records available to the
28 EEOC within twenty-one (21) business days following a written request by the

1 EEOC.

2 L. Reporting

3 1. *Initial Report*

4 Defendant Kimco, through its EEO Monitor, shall submit to the EEOC an
5 initial report within ninety (90) days after the Effective Date containing:

6 a. a statement confirming Defendant Kimco’s compliance with
7 Sections IX.A and IX.B under “Claimant Specific Injunctive Relief”;

8 b. the revised Policies and Procedures under Section XI.C,
9 including the Internal Complaint Procedure described in Section XI.D;

10 c. the name of the trainer(s) selected, a description of the trainings
11 to be provided, the training materials, and an outline of the curriculum;

12 d. a copy of the Complaint Log, pursuant to Section XI.F, with a
13 summary of the procedures and recordkeeping methods developed with the
14 Monitor for centralized tracking of discrimination, harassment and retaliation
15 complaints and the monitoring of such complaints;

16 e. a copy of the revisions to Defendant Kimco’s performance
17 evaluation forms, as described in Section XI.H;

18 f. a statement confirming that the notice pertaining to this Decree
19 has been posted pursuant to Sections XI.G; and

20 g. a copy of the flyer regarding the Hotline, pursuant to Section
21 XI.J.

22 2. *Reports Regarding Monetary Relief*

23 Defendant Kimco shall submit to the EEOC the reports detailed in Section
24 VIII, including but not limited to, written verification of the funding of the Class
25 Fund, reporting on a quarterly basis all checks issued, all checks cashed, and the
26 funds remaining in the class fund, including any uncashed checks.

27 3. *Semi-Annual Report*

28 Within 180 days from the Effective Date, and semi-annually thereafter,

1 Defendant Kimco shall provide reports containing:

2 a. A list of all placement employers that Defendant Kimco does
3 business with, including the name of the entity and the address of the relevant
4 worksites;

5 b. Under Section IX.C, a written report that includes (a) a list of
6 all Eligible Claimants that seek placement and (b) either identifies the placement
7 employer, job position, and date of hire, or an explanation why Defendant Kimco
8 was unable to identify a placement acceptable to the Claimant;

9 c. A statement confirming that Defendant Kimco has distributed
10 the revised Policies and Procedures to all employees per Section XI.C;

11 d. Annually, a statement that it has ensured that all placement
12 employers with which it is doing business have compliant policies and procedures,
13 along with a description by the Monitor of how this obligation has been
14 discharged, under Section XI.I;

15 e. Documents verifying the occurrence of all training sessions,
16 including the written materials used, a description of the training, a list of the
17 trainers, and a list of the attendees, pursuant to Section XI.E;

18 f. a statement confirming that the required notices pertaining to
19 this Decree, the revised Policies and Procedures, and the Hotline have been posted
20 pursuant to Sections XI.G, XI.C, and XI.J;

21 g. the name, date, and nature of action taken to award or discipline
22 an employee pursuant to Section XI.H;

23 h. The status of Defendant Kimco's compliance with the terms of
24 the Decree;

25 i. Whether any revisions of Defendant Kimco's policies and
26 procedures regarding racial discrimination, racial harassment, and retaliation took
27 place since the preceding report, including a copy of the revised policies or
28 procedures.

1 The Semi-Annual Report shall also include the Monitor’s report to the
2 EEOC and Defendant Kimco that describes all work performed pursuant to this
3 Decree and provides the Monitor’s feedback and recommendations going forward.
4 The report shall include the Monitor’s evaluation and recommendations following
5 the audits under Section XI.B, the trainings under Section XI.E, and review of
6 Defendant Kimco’s implementation of the Internal Complaint Procedure and
7 Complaint Log under Sections XI.D and XI.F. Most importantly, the Monitor’s
8 report shall provide feedback regarding Defendant Kimco’s good faith efforts to
9 comply with this Decree and Title VII, as well as Defendant Kimco’s efforts to
10 ensure employment decisions are made without regard to race, and respond
11 appropriately to harassment, discrimination, and/or retaliation complaints. The
12 Monitor’s report shall cover all the Monitor’s responsibilities, as detailed in
13 Section XI.A.

14 4. *Exit Report*

15 Defendant Kimco shall report to the EEOC at least 90 days prior to the
16 expiration of this Decree regarding its compliance with this Decree. Separately,
17 the Monitor shall report to the EEOC at least 90 days prior to the expiration of this
18 Decree covering all the Monitor’s responsibilities, as detailed in Section XI.A and
19 provide feedback regarding Defendant Kimco’s compliance with this Decree and
20 Title VII, the results of Defendant Kimco’s efforts to diversify the workplace and
21 ensure employment decisions are made without regard to race, and whether
22 Defendant Kimco has responded appropriately to harassment and retaliation
23 complaints. The Monitor shall make recommendations, where appropriate, for
24 extension of the term of the Decree.

25 **XII.**

26 **COSTS OF ADMINISTRATION AND IMPLEMENTATION**
27 **OF CONSENT DECREE**

28 Defendant Kimco shall bear all costs associated with its administration and

1 implementation of its obligations under this Consent Decree.

2 **XIII.**

3 **COSTS AND ATTORNEYS' FEES**

4 Each party shall bear its own costs of suit and attorneys' fees.

5 **XIV.**

6 **MISCELLANEOUS PROVISIONS**

7 A. Unless otherwise stated, all notices, reports and correspondence required
8 under the Decree shall be delivered (1) by U.S. Mail to the attention of Anna Y.
9 Park, Regional Attorney, U.S. Equal Employment Opportunity Commission, 255
10 East Temple Street, 4th Floor, Los Angeles, California, 90012; and (2) by email to
11 lado.legal@eeoc.gov. Defendant Kimco shall maintain copies of all such notices,
12 reports and correspondence for at least the Term of the Decree.

13 B. During the term of this Consent Decree, Defendant Kimco shall provide any
14 potential successor-in-interest with a copy of this Consent Decree within a
15 reasonable time of not less than thirty (30) days prior to the execution of any
16 agreement for acquisition or assumption of control of any or all of Defendant
17 Kimco's facilities, or any other material change in corporate structure, and shall
18 simultaneously inform the EEOC of same.

19 C. During the term of this Consent Decree, Defendant Kimco shall assure that
20 each of its directors, officers, human resources personnel, managers, supervisors,
21 and subcontractors are aware of any term(s) of this Decree which may be related to
22 his/her job duties.

23 D. The Parties agree to entry of this Decree and judgment subject to final
24 approval by the Court. All parties, through the undersigned, respectfully apply for
25 and consent to this entry of this Consent Decree Order.

26 **XV.**

27 **COUNTERPARTS AND FACSIMILE SIGNATURES**

28

1 This Decree may be signed in counterparts. A facsimile signature shall have
2 the same force and effect of an original signature or copy thereof.

3 All parties, through the undersigned, respectfully apply for and consent to
4 the entry of this Decree as an Order of this Court.
5

6
7 Respectfully submitted,

8 U.S. EQUAL EMPLOYMENT
9 OPPORTUNITY COMMISSION
10

11
12
13 Date: 5/10/2021

/s/ Anna Y. Park
14 By: Anna Y. Park
Attorney for Plaintiff, EEOC
15

16
17 Date: 5/10/2021

/s/ Jennifer Lutz
18 By: Jennifer Lutz
Attorney for Defendant Kimco
19 Staffing Services, Inc.
20

21
22 Date: 5/10/2021

/s/ Tom Megonigal
23 By: Tom Megonigal
Representative of Defendant Kimco
24 Staffing Services, Inc.
25
26
27
28

EXHIBIT A
ACKNOWLEDGEMENT AND RELEASE

1
2
3 In consideration for the \$ ___ paid to me in connection with the resolution of
4 *EEOC v. Kimco Staffing Services, Inc. and Ryder Integrated Logistics, Inc.*, United
5 States District Court for the Central District of California, Case Number 5:19-cv-
6 01838 JFW (SPx), I am releasing any claims that were asserted or could have been
7 asserted against Defendants in the above-referenced civil action, for claims for race
8 discrimination, harassment and/or retaliation arising under Title VII of the Civil
9 Rights Act of 1964 and Title I of the Civil Rights Act of 1991 (“Title VII”) and the
10 Fair Employment and Housing Act at the time or prior to the date of this Release.
11 I agree that this means I am agreeing not to sue Defendants with respect to the
12 claims I am releasing.

13 Nothing in this Agreement shall be deemed to be a release or waiver of (a) any
14 claims that are not waivable under applicable federal, state or local law, and (b)
15 rights under Worker’s Compensation or Unemployment Insurance law. I
16 understand that this agreement does not prohibit me from: (1) Filing a claim with a
17 government agency that is responsible for enforcing a law; however, I understand
18 that I will not be entitled to recover any monetary damages or any other form of
19 personal relief in connection with such a claim, investigation or proceeding; (2)
20 Providing information regarding my employment as may be required by law or
21 legal process; or (3) Cooperating, participating or assisting in any government or
22 regulatory entity investigation or proceeding.

23 I also understand that the “Defendants” being released includes the following
24 entities and persons: Ryder Integrated Logistics, Inc., Kimco Staffing Services,
25 Inc.

26 Date: _____ Signature: _____
27
28

EXHIBIT B

NOTICE OF SETTLEMENT AND CONSENT DECREE

TO: ALL EMPLOYEES OF KIMCO STAFFING SERVICES, INC.

The U.S. Equal Employment Opportunity Commission (“EEOC”) filed a lawsuit in the United States District Court for the Central District of California against Kimco Staffing Services, Inc. (“Kimco”), Case Number 5:19-cv-01838 JFW (SPx). EEOC filed this lawsuit alleging that employees were subjected to a racially hostile work environment, discrimination in the terms and conditions of their employment based on race, and/ or subjected to retaliation for opposing race discrimination. In addition to monetary relief, Kimco has agreed to various injunctive remedies such as revising policies and procedures regarding race harassment prevention, training employees regarding race harassment, creating a system for tracking complaints, and providing EEOC with periodic reports.

Kimco has appointed an Equal Employment Opportunity Monitor (“EEO Monitor”) to ensure Ryder’s compliance with the Decree, to oversee investigation and resolution of all reports of race harassment, discrimination and retaliation, and to ensure equal opportunity for all employees. If any employee has information regarding race harassment or retaliation, she or he may report it directly to the EEO Monitor.

Federal law prohibits harassment or discrimination against any employee or applicant for employment because of a person’s age, disability, race, sex, color, religion or national origin, with respect to hiring, compensation, promotions, discharge, terms and conditions or privileges of employment. Federal law also prohibits retaliation for those who oppose or resist harassment or discrimination or participate in investigations regarding complaints of discrimination.

Kimco is committed to complying with federal anti-discrimination laws in all respects. Race harassment or discrimination will not be tolerated. Any employee who files a complaint or formal charge of discrimination, gives testimony or assistance, or participation in any manner in any investigation will be protected from retaliation.

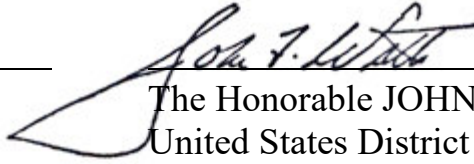
If you believe that you have been subjected to discrimination or harassment because of your race, you may follow Kimco’s procedures and/or you may seek assistance from:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
255 East Temple Street, 4th Floor
Los Angeles, CA 90012
TELEPHONE NUMBER: (213) 669-4000

ORDER

The provisions of the foregoing Consent Decree are hereby approved and compliance with all provisions thereof is HEREBY ORDERED.

Date: May 25, 2021


The Honorable JOHN F. WALTER
United States District Court Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28