

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
and)
) No. 01 C 4427
MARION TOWNSON, PHYLLIS LOPEZ,)
and RHONDA PORTER,) The Honorable Joan B. Gottschall
)
Plaintiffs-Intervenors,) Magistrate Judge Morton Denlow
)
v.)
)
INTERNATIONAL PROFIT ASSOCIATES,)
INC.,)
)
Defendant.)

**REPORT TO THE PARTIES AND THE COURT PURSUANT
TO PARAGRAPH 39 OF THE CONSENT DECREE**

I. INTRODUCTION

We were appointed Co-Monitors pursuant to the Decree entered by the United States District Court for the Northern District of Illinois on March 2, 2011. The present report is issued pursuant to Paragraph 39 of the Decree, which provides:

Within one (1) year after their appointment, the Decree Monitors shall complete their own review and evaluation of all current employment policies and practices that are related to the Statement of Intolerance of Sexual Harassment, and shall submit a written report (which shall be a public report) to EEOC, IPA and the Court setting forth the following information:

- A. an assessment of whether IPA maintains or has successfully implemented each specific policy and practice ordered in paragraph 50 below;
- B. for each policy, procedure or practice outlined in paragraph 50 below that has not been maintained or successfully implemented, a statement

discussing the reason for IPA's failure to maintain or implement such policy, procedure or practice;

- C. an evaluation of the impact of any specific changes made pursuant to this Decree;
- D. an assessment of the effectiveness of IPA's policies and practices for achievement of IPA's Statement of Intolerance of Sexual Harassment;
- E. recommendations for any changes to existing practices or programs that the Decree Monitors deem necessary or appropriate for achieving IPA's statement of Intolerance of Sexual Harassment and the terms of this Decree; and
- F. timetables for implementation and completion of compliance with any of their recommendations, subject to the terms of this Decree.

Our activities since appointment have been comprehensive. We requested and reviewed extensive materials from ISI¹ dealing with its formal policies and evaluated those policies. We helped ISI redesign its sexual harassment policy to assure compliance with the Decree and to make it clearer, more effective, and more useful for training. We have visited ISI headquarters in Buffalo Grove on numerous occasions. We have had extensive telephone contact (often daily) with ISI's Director of Human Resources, Jon Andes, who is the principal ISI official charged with responsibility for dealing with us and assuring compliance with the Decree, and we have met with other top Company officials. Pursuant to paragraph 36 of the Decree, we issued a confidential 90-day report giving our initial assessment. We have been extensively involved in the elaborate training activities we will describe herein. We have been involved in review of ISI's processing of the 17 internal complaints of sexual or sex-based harassment or retaliation that have been filed since the Decree was entered, and have occasionally had dealings with complainants on those complaints. With the assistance of a third interviewer, we conducted

¹ International Profit Associates (IPA, as it is abbreviated in the Decree) changed its name to International Services, Inc. (ISI) and will be called "ISI" in this Report.

confidential interviews of 92 of the 419 employees at the Buffalo Grove headquarters during December 15, 16, and 17, 2011 and have tabulated and analyzed the results. We have also met on several occasions with the EEOC in connection with various issues.

Most of our dealings with the Company have been through the Executive Director, Human Resources. He deserves great credit for making this Decree work as intended. From the beginning, he made it clear to us and to the Company's management that he is prepared to take strong measures to assure compliance with the Decree. He has responded promptly to our requests for information, has taken our advice seriously, has been candid with us, and has moved forcefully to deal with problems. He has assured us that top management of the Company is backing him on the forceful measures he has taken, and so far the evidence bears that out. He also understands that, as we will discuss in this report, there are still areas that need to be addressed.

II. FORMAL POLICY REVIEW

Paragraph 50 of the Decree required ISI to change its formal sexual harassment policy to the extent necessary to comply with a list of specified requirements. At the start of our work, we were given the Company's proposed new policy against sexual and sex-based harassment policy to review. We found it overly legalistic as well as deficient in covering all of the requirements included in the Consent Decree. We offered to write a policy modeled on earlier sexual harassment policies we have developed in other monitoring assignments under EEOC Consent Decrees. The Company accepted the rewritten policy, which complies with the requirements of paragraph 50 of the Decree and is designed to be integrated into sexual harassment prevention training. The new policy deals solely with sexual and sex-based harassment, in light of the importance of that form of harassment in the Company's recent history. The Company

disseminated it on May 10, 2011 to all employees with a cover memorandum, and obtained written acknowledgements from them. By this time, through an employee complaint, we realized that at least some ISI field employees did not know that the Decree had been entered at all. We therefore recommended to Mr. Andes that he send a copy of the Notice that the Decree requires to be posted at the Buffalo Grove headquarters be mailed to all employees. The Company agreed and inserted a copy of the Notice and an explanatory cover letter along with the new sexual harassment policy in the mailing of May 10, 2011.

As we had intended, and will discuss below, the new policy on sexual harassment proved to be well-suited for use in the sexual harassment training that the Company has carried out under the Decree.

We also reviewed a short “EEO Policy” contained in the materials that are given to new employees and suggested a change to make its reporting provisions consistent with the revised sexual harassment policy and to remove language that we felt might deter employees from speaking up. This was a minor repair to a provision that probably should be replaced entirely if the Company, as we believe it should, implements a complete employee handbook consistent with current human resources practices.

At our suggestion, Human Resources instituted a model complaint log designed to track all internal complaints of sexual harassment and their disposition. This tool has been utilized consistently and in a timely manner, simplifying the monitoring process substantially and will hopefully be retained by Human Resources after the monitoring ends.

III. DEVELOPMENT OF AN EFFECTIVE HUMAN RESOURCES FUNCTION

Paragraph 50(D) of the Decree requires that for the duration of the Decree, ISI “shall have an experienced human resources professional, subject to approval of the Decree Monitors,

operate and manage its human resources functions (including without limitation those related to sexual harassment).” Before the Decree was signed, ISI hired a new Executive Director of Human Resources. Because the Decree places such emphasis on this position, and because of its critical importance in carrying out the objectives of the Decree, we wish to discuss in some detail the ISI’s Human Resources function, the challenges it faces, and the progress it has made under the new Executive Director’s leadership.

It became apparent to us early on that new Executive Director inherited a Company Human Resources function in urgent need of improvement. This was not just a function of the fact that the Company had just paid millions of dollars to settle an EEOC sexual harassment lawsuit. It also was a result of basic characteristics of ISI’s business.

ISI is a family business with an unusual business model: business consulting services are sold through telemarketing. Aggressive salesmanship is essential to ISI and to the ability of its many sales employees to earn a decent living. This fact encouraged development of a “macho” sales-oriented culture over the years and it persists, particularly in the telemarketing wing of the organization. A rah-rah spirit of salesmanship prevails, with announcements made over the Buffalo Grove headquarters’ public address system every time a telephone sale is made. Moreover, the economic success of the Company clearly depends inordinately on a relatively few highly successful telemarketers – the crucial first stage of the ISI sales process that gets the Company’s foot in the door for purposes of ultimately selling its management consulting services. These “big producers” ultimately account for a high percentage of the Company’s profits.

There is nothing wrong or illegal about any of these facts. Family-owned and -operated businesses are the backbone of the American economy, and aggressive selling is a characteristic

feature of many successful businesses. But these characteristics carry challenges and risks for the Company and especially for its Human Resources function. First, in a macho sales culture, the tone is set largely by aggressive men, and this tone can contribute to a sexually charged work environment and resulting complaints of sexual harassment. Second, when “big producers” become the subject of sexual harassment complaints, as has happened and continues to happen at ISI, there is economic pressure to treat them leniently. Third, in any family-dominated business, personal loyalties caused by long-standing ties between particular employees and the controlling family can lead to reluctance to take remedial action where it is needed and to actual or perceived instances of favoritism.

In our view, these characteristics of ISI made it vulnerable to widespread charges of sexual harassment in the past and pose a continuing challenge for its Human Resources operation. We take no position on the merit of the EEOC’s lawsuit and are not criticizing the Company’s business model or the quality of the services it sells. But a company of this size that survived a settlement of the size ISI entered into cannot afford any serious resurgence of similar accusations, whether merited or not. It needs a Human Resources function that has the power, resources, staffing and training to minimize the risks of renewed widespread accusations of unlawful conduct.

When we began our work, a number of basic features that characterize human resources operations at most companies were, and some still are, lacking at ISI. There was (and still is) no comprehensive Company employee handbook. The sexual harassment policy in place when we were appointed was inadequate. During a nearly ten-year sexual harassment lawsuit brought by the EEOC, such sexual harassment prevention training as had been given had been clearly inadequate. Human Resources had no serious decision-making role in hiring or firing. We came

across evidence that employees were actively discouraged from taking problems with their supervisors to Human Resources.

Marginalization of the Human Resources function in corporate decision-making is not unusual in family-founded and family-controlled companies that have grown rapidly, as ISI did in the 1990s. Family members who found, own and run the business can be understandably reluctant to give substantial power over personnel decisions to the Human Resources apparatus and to decrease their own involvement in such decisions. But the professionalization of Human Resources is a necessity in today's legal climate, particularly for a company that has just been forced to pay millions of dollars under a sweeping Consent Decree with the federal government.

Given these facts, the progress that has been made at ISI over the past year in developing a professionalized Human Resources function is remarkable, particularly given the constraints on the Executive Director at the time he took the job. When he stepped into his job, ISI had no real Human Resources "infrastructure" in place, and Human Resources so far as we can tell had never had significant independent power to address serious personnel problems. Moreover, unlike most Human Resources directors, he was required to perform his job from day to day constrained by a detailed Consent Decree and two Monitors looking over his shoulder. Under the best of circumstances, his job would be difficult and missteps were to be expected.

However, over the past twelve months, he has made significant progress in creating a Human Resources function with real powers to address and remedy problems when they arise and to prevent problems in the future, and he appears to have convinced his superiors at ISI that creating such a function is a necessity for the Company. This progress is reflected in several different areas, including (1) the increasing confidence with which Human Resources at ISI has taken measures beyond those required by the Decree to address issues such as sexual harassment,

the Company's dress code, and the like; (2) the increasing skill and confidence with which Human Resources has investigated internal complaints of sexual harassment and has taken remedial measures when such complaints have been substantiated; and (3) the active contribution of Human Resources to assure that training required by the Decree is not just given as required, but is taken seriously by all concerned. We will comment on each of these areas in subsequent sections of this report.

Much remains to be done before ISI's Human Resources function can be deemed fully satisfactory for a company of this modest but significant size. On the whole, the new Executive Director is a one-man show in assuring compliance with the Decree and he has his hands more than full in trying to modernize the Human Resources function. He has a capable Assistant Director, but we recommend the Company consider increasing his professional staff. The Company still needs to professionalize materials such as an employee handbook with EEO and other policies. Finally, any company that depends on telemarketing is likely to have high turnover, and this raises issues of whether the Company's hiring and recruitment policies and procedures are adequate. At present, Human Resources appears to have little, if any, role in these areas. This situation is contrary to current human resources practices in companies of this size. The hiring process should be assessed and managed through an EEO perspective to assure consistency in using only job-related criteria and questions in recruiting, interviewing, and hiring decisions.

IV. PROCESSING OF INTERNAL COMPLAINTS OF SEXUAL HARASSMENT

The Decree requires, and the ISI sexual harassment prevention policy specifies, an internal complaint procedure and also advises persons they may file charges of discrimination with government agencies, including the EEOC.

During the first year of the Decree, no employee has filed an EEOC or other government-agency charge alleging sexual or sex-based harassment. However, during this period there have been seventeen complaints alleging sexual harassment that were filed pursuant to the Company's internal procedure and generated investigations by Human Resources. The Executive Director, Human Resources handled all these investigations either personally or in conjunction with the Assistant Director. Pursuant to the Decree and arrangements we made with him, he provided us with his notes of interviews, and then provided us, in advance of carrying out any decision, with his report discussing his conclusions and proposed disposition. Through this process, we have had a detailed view of the investigative techniques and thought processes involved in all investigations.

In general, our approach has been to respect the final judgment as to the course of action taken once we were consulted and had the opportunity to have input with regard to further investigation or discussion that we felt was necessary. Our purpose was to contribute to developing an effective *modus operandi* for these investigations.

The early investigations revealed inadequacies in the Company's manner of dealing with such complaints. We had to remind the Company of time limits in the Decree with respect to providing notice of complaints to us. More seriously, the Executive Director discovered in one of the early complaints that when supervisors received the initial complaint, they did not always report the complaint immediately to Human Resources. The Executive Director reacted vigorously to this information and made clear in no uncertain terms (by imposing discipline on a high-ranking official within the Company who had tried to deal with a complaint on his own) that all such complaints had to be reported immediately to him and that he, not they, was responsible for the investigation of the complaints. One particular case revealed the need to

check the accused employee's past record to see whether similar accusations had been made and previous discipline taken, and to decide what weight to give to such facts in disposing of the new claim. Human Resources' collaboration with the Monitors in establishing basic procedures and maintaining ongoing communication during investigations has been exemplary.

The investigations to date have resulted in five employees being terminated; in one employee being demoted; in five employees being suspended without pay, and/or in being denied bonuses that otherwise would have been paid to them; in eight written warning notices being given; in three verbal warnings being given; in two employees being put on probation; and in one employee being given a last chance agreement. Additionally, one case entailing sexual harassment by a client resulted in the Company sending a letter to the potential client informing him that his behavior was unacceptable as well as adding the business entity to the Company's "Do Not Call" client call list. The issue of dealing with client demands "to keep the deal from going down" came up frequently in the training sessions for field employees. **We recommend that the Company be attentive to upholding its EEO Policy and Policy Against Sexual and Sex-Based Harassment relative to clients.** (Throughout this Report, we have used boldface type for formal recommendations we are making to the Company pursuant to Section 39(E) of the Decree.)

In cases where no formal discipline was imposed, Human Resources most often took other prudent measures, such as separating the employees who were involved in the relevant episode or coaching the pertinent parties. One case involving a flagrant and inexcusable breach of confidentiality by an employee involved in the investigation resulted in termination of that employee. Some cases have uncovered oddities that needed to be addressed generally. For example, an abundant use of inappropriate nicknames eventually led Human Resources to

discover that the Company in fact encouraged nicknames by asking applicants to indicate their preferred nicknames, which sometimes were inappropriate. This strange feature of the employment process has been eliminated.

One noteworthy trend, especially in more recent complaints, is that some of these cases came to Human Resources because managers reported them, an indication that managers are now taking seriously their obligation to report to Human Resources violations of the Policy Against Sexual and Sex-Based Harassment.

We believe that substantial and appropriate discipline is being taken in response to substantiated complaints. Some of the cases of discipline in question involved important persons within the Company, and we were impressed both with the measures that Human Resources imposed and with the support from top management.

If we have any concern in this area, it has to do with the occasional situation in which the accused employee is a “big producer.” There were instances where we had the impression that had the employee in question been a less prominent producer, the discipline proposed initially might have been more drastic; we discussed this concern with the Executive Director, Human Resources. We have not, however, disagreed with any of the ultimate outcomes...

Two complainants have exercised their right under the Decree to appeal to the Monitors from the Company’s disposition of their complaints. In both cases, we worked with Human Resources and the complainant to reach satisfactory outcomes amenable to both.

V. TRAINING ON THE COMPANY’S SEXUAL HARASSMENT POLICY

The Decree imposes substantial training responsibilities on the Company. Paragraph 50(C)(5) provides that within 90 days after the dissemination of the sexual harassment policy required by the Decree, ISI shall cause to be conducted sexual harassment training for all

employees (both at headquarters and in the field), subject to the Monitors' oversight and approval. In addition, paragraph 50(C)(6) provides for mandatory annual refresher sexual harassment training to all employees, including all officers, managers, and supervisors (including senior managers), and mandatory sexual harassment training to all new employees during employee orientation.

When we initially met with Human Resources on April 6, 2011, the Company was on the verge of initiating training through in-house efforts and had a written outline of what the Company planned to present. We were startled at how far along the planned training was; there was even a proposed date to deliver it. We essentially called a halt to this process. We reminded Human Resources that the Decree required the Monitors' approval of training in advance and we reviewed the materials and found them well-intentioned but ineffective. As time went on, and we acquired a sense of the corporate culture, we concluded that any in-house training effort would be inadequate and recommended that the Company hire an external experienced vendor to conduct the training. We recommended several vendors with whom we have worked in the past. Initially the Company resisted because of the financial outlay required. We allowed the Company time to develop its own revised training using our input. Soon after, in mid-May 2011, the Company acceded to our recommendation to use an outside vendor.

After discussions with two experienced potential vendors the Company elected to contract with Seyfarth Shaw At Work (SSAW) to provide customized training. One of the Monitors met on July 6, 2011 with the Executive Director and SSAW to work on the design of the training. In addition, SSAW helped develop a "statement of core values" for the Company that became part of the training. Although a general non-harassment policy covering non-sexual or sex-based harassment is not mandated by the consent Decree, SSAW also drafted such a

policy, for which the company sought and received Monitor input and approval, and it was incorporated into the training. A dry run delivery for the monitors and HR department was held on August 2, 2011.

The training developed by SSAW was implemented as follows. On two Saturdays in August 2011, two separate three-hour training sessions were given in Buffalo Grove for all managers, delivered by one SSAW trainer. On two Saturdays in September 2011, three two-hour sessions were given onsite for all non-supervisory Buffalo Grove employees. Human Resources staff was present in all sessions. Two makeup training sessions were held October 15, 2011 for employees who missed the earlier training. The Company's annual employee meeting on January 14, 2012 (held in Schaumburg, a change in the Company's previous practice of holding the annual employee meeting in Las Vegas) was used as a partial response to the problem of training the many Company employees who work in the field across the United States rather than in Buffalo Grove. SSAW provided three training sessions for any Buffalo Grove manager not previously trained as well as managers who worked in the field. Additionally, six separate sessions were held for training salespersons, (who, upon the telemarketer scheduling an appointment, visit the client to sell a business analysis), analysts, (who perform a one or two-day analysis of the business and what services it needs), and consultants (who implement the changes suggested in the business analysis).

The above efforts, however, still left a large number of employees based in the field rather than in Buffalo Grove without the required training. For these employees, the Company obtained the Monitors' permission to use webinars rather than live training. Nine webinar sessions were held over two Saturdays in February, 2012. We were impressed by the SSAW training. It was interactive, avoided legalistic formulas, and was delivered by skilled trainers

who kept audience interest high. As discussed below, reaction to the training in our employee interviews was favorable, although there was some discontent at the Company's decision to conduct the main training on Saturdays. Before the training began, we had debated the value and need for training Company employees who spend all their time in the field and are not based in Buffalo Grove or any other significant office. However, it became clear that training of field personnel and managers was as needed and appreciated as training of employees clustered at the Buffalo Grove headquarters.

In addition to the SSAW training conducted through the Decree, the Company's Human Resources Department has conducted its own sexual harassment training program every week as part of the weeklong overall training (by function) that all new hires received. Initially, SSAW offered its own version of new-hire training as part of its contract with ISI, but Human Resources was unenthusiastic about it and asked for permission to deliver new-hire training in its own way.

After taking steps to assure that the quality level of this new-hire sexual harassment training segment would be uniform, effective and compliant with the terms of the Decree regardless of who delivered it, we gave the Company permission to continue its practice of including it as part of its overall orientation training.

Monitor collaboration, approval and observation throughout all aspects of the training process occurred seamlessly. We commend the Company for its commitment to providing a best-practices training experience, treating the training requirements of the Decree with the utmost importance, and providing the Monitors with ongoing and extremely thorough tracking of employee participation. **Our only recommendation at this time related to training is that next year the Policy Against Sexual and Sex-Based Harassment be the key training policy, with the general non-harassment Policy being covered secondarily.** There were times when

key points on the former were glossed over or omitted. It was confusing to train on both policies side by side when the trainer failed to cite specific pages on the relevant policy.

VI. ASSESSMENT OF THE CURRENT SITUATION WITH RESPECT TO CONTROL OF SEXUAL HARASSMENT

Our December 2011 interviews included 92 employees selected for the most part at random from an employee roster of employees based in the Buffalo Grove headquarters. 57 were women, 35 were men. Thus, we interviewed 31% of the 130 women then on the roster at the Buffalo headquarters and 12% of the 289 men. Of the 92 interviewees, 10 were managerial, 82 were non-managerial. We told interviewees that we would compile statistics from what was told to us, but promised them confidentiality in the sense that no information they gave us would be shared with ISI in any form that could be traced back to them. We interviewed on the basis of a standard questionnaire designed to produce data in statistically analyzable form. The statistical analyses were done by a retained statistical consultant; he broke the results down by gender, by managerial versus non-managerial, by white versus minority, and by those with five or more years of seniority versus those with less than five years of seniority. We followed up questions beyond the basic multiple choice responses and obtained much detailed and useful information and opinions that helped us get what we believe is an accurate understanding of the present situation at the Company.

A. Summary of major statistical data.

The following is a summary of what we regard as the most important statistical results of these interviews.

1. Virtually all interviewees were aware of the Decree. All but four had attended the recent sexual harassment prevention training.

2. The interviewees were asked: “On a scale of 0 to 5, with 5 being the most severe, how much of a problem is sexual harassment in the Company today, in your opinion?” 60.44% answered 0; another 16.48% answered 1; another 12.09% answered 2; 4.40% answered 3; 5.49% answered 4; 1.10% (one interviewee) answered 5. These results did not differ much by men versus women. Approximately 90% of women respondents answered this question 0, 1, or 2, with 61.4% of all women answering 0. The ten managerial respondents (of whom seven were men) all answered this question 0 or 1, with eight of them answering 0. There was little difference between the two seniority groups in answering this question. However, minority interviewees were more likely to answer this question “3,” “4” or “5” (20% of minorities versus 6.58% of whites).

3. Similarly to asking about sexual harassment, we asked, “How much of a problem is *sex-based* harassment (e.g., offensive or demeaning comments about women or men) in the Company *today*, in your opinion?” 64.77% of the interviewees answered “0” on the 1 through 5 scale; 19.32% answered “1”; 5.68% answered “2”; 5.68% answered “3”; 2.27% answered “4” 2.27% answered “5.” Men were slightly more likely to take a favorable view in answering this question than women. As with the question on sexual harassment, minorities were significantly more likely to take an unfavorable view than whites.

4. We asked: “Are you aware of *current* sexual or sex-based harassment and/or retaliation?” 89.13% answered “no”; 3.26% answered “some”; 6.52% answered “yes”; 1.09% (one interviewee) answered “don’t know.” On this question, women were more likely than men to answer “some” or “yes” (12.58% of women versus 5.72% of men). Minorities were likewise considerably more likely to answer “some” or “yes.” There was little difference in how managers versus non-managers answered this question.

5. We asked: “Since the Consent Decree in March, has the working environment at ISI changed?” Of all interviewees, 56.52% answered “better”; 30.43% answered “No change (still fine); 3.26% answered “mixed”; 2.17% answered “No change (still bad)”; 7.61% answered “don’t know” or “other.” There was not much difference in these answers by subgroups.

6. In a related question, we asked: “Do you think that the Consent Decree and the new Policy Against Sexual and Sex-Based Harassment in the Workplace have played any role in controlling sexual or sex-based harassment at the [Company]?” 60.47% of all respondents said “yes,” 8.14% said “some,” 12.79% said “no,” 8.14% said “some,” and 18.60% answered “don’t know” or “other.” The general picture painted by these answers did not vary much as between women and men. Minorities, who were more likely than whites to think there had been a problem in the past, were more likely to think that the Decree had helped.

7. We asked: “Have you ever experienced any sexual or sex-based harassment yourself?” 91.01% answered “no”; 8.99% (8 interviewees) answered “yes.” Of these 8 interviewees, seven were women, and 4 were minority; all were non-managers. Persons with less than five years seniority were more likely to answer “yes” than persons who had been there at least five years.

8. We asked: “If you were being sexually harassed today, would you report it?” 87.64% answered “yes”; 8.99% answered “depends”; no one answered “no.” These results did not vary much by gender, seniority, or minority status. 100% of the managerial interviewees answered this question “yes.”

9. We asked, “Have you seen anyone else being sexually harassed since the settlement in March 2011?” 90.24% answered “no”, 9.76% answered “yes.” All those who answered “yes” were women, and all were non-managers. Minorities were significantly more

likely to answer “yes.” We followed up this question by asking whether those who saw such harassment of others reported it. All answered “no.”

10. We asked, “If you saw someone else being sexually harassed today, would you report it?” 77.27% answered “yes,” 20.45% answered “depends,” and 2.27% answered “don’t know” or “other.” No one flatly answered “no.” Females (and minorities) were somewhat less likely to answer “yes” and more likely to answer “depends” than men (or whites) were. All managerial interviewees answered “yes.”

11. We asked, “If you reported sexual harassment against yourself or someone else, would you worry about retaliation from coworkers?” 89.77% answered “no,” 9.69% answered “yes,” and 1.14% answered “depends.” Women (and minorities) were somewhat more likely to answer “yes” than men (or whites). All managers answered “no.”

12. We asked, “If you reported sexual harassment against yourself or someone else, would you worry about retaliation from management?” 90.91% answered “no,” 7.95% answered “yes,” and 1.14% answered “depends.” Again, women (and minorities) were somewhat more likely to answer “yes” than men (or whites). All managers answered “no.”

13. We asked all interviewees who had been through the recent sexual harassment prevention training: “Did you find the training useful?” 79.55% answered “yes,” 10.23% answered “somewhat,” and 7.95% answered “no.” The percentage of men (and minorities) answering “yes” was somewhat higher than the percentage of women (or whites). No manager answered “no” to this question.

14. We asked whether those who took the training thought that “it made a positive impact in the workplace.” 71.08% answered “yes,” 10.84% answered “some,” 7.23% answered

“no,” and 10.84% answered “don’t know” or “other.” Again, men (and minorities) were somewhat more likely to answer “yes” to this question.

15. We asked, “Since the training, has the environment changed in terms of employees being treated more respectfully?” 55.29% answered “better,” 4.71% answered “mixed,” 3.63% answered “still bad”; 32.94% answered “still fine”; 3.53% answered “don’t know” or “other.” There was no striking difference by gender or race in these answers. Managers, as usual, had a uniformly favorable view of the situation.

16. We asked, “On a scale of 0 to 5 with 5 being most severe, how prevalent is profanity at ISI today, in your opinion?” We asked this question because in our experience there is a correlation between the general prevalence of foul language and situations that produce charges of sexual harassment. 8.99% answered 0, 23.60% answered 1, 29.21% answered 2, 19.10% answered 3, 11.24% answered 4, and 7.87% answered 5. There is no coherent pattern distinguishing the answers by gender or race; managers were less likely to find a problem with profanity than non-managers.

17. We followed up the profanity question by inquiring about the use of profanity since the training. 59.77% answered “decreased,” 29.89% answered “same,” 1.15% answered “increased,” and 9.20% answered “other.” There was no significant difference between men and women or minorities and non-minorities in answering this question.

18. We asked, “Currently, do you think your Supervisor is effective in maintaining an environment free from harassment, retaliation or abuse?” 88.64% answered “yes,” 4.55% answered “no,” 2.27% answered “somewhat,” and 4.55% answered “don’t know” or “other.” There was little variation in these answers by the subgroups analyzed.

19. We asked: “On a scale of 0 to 5 with 5 being the best, how would you rate the general level of professionalism on the part of supervisors and managers?” Almost 80% answered 3, 4, or 5. There was little variation between men and women. Minorities were more likely to answer this question in the low range than whites were.

20. We asked a series of questions to elicit whether persons had dealt with Human Resources on issues related to harassment and if so whether they had been satisfied with how Human Resources had handled the matter. Of our interviewees, only 8 of them had had contact with Human Resources on such matters, and they were generally satisfied with the way Human Resources had conducted itself. Nearly 90% of those interviewed answered, “Yes, “to the question, “Do you currently see the Human Resources Department as a resource if you have a questions or issue to raise?”

B. Impressions and conclusions as to the present situation and steps that need to be taken

From the above statistical results, from the results of investigations of internal complaints of sexual harassment, and from the extensive information we obtained from talking to so many employees, we have formed a number of conclusions and impressions of the present situation at ISI on the subject matter of the Decree. The overall trend is very positive, but there are still areas of concern.

1. As the results of the investigations show, violations of the sexual harassment prevention policy do continue to occur. But there is no evidence that such violations are widespread or systemic. The vast majority of people we interviewed could point to no instance of sexual harassment occurring at the present time, to themselves or anyone else. Whatever may have been the situation during the period at issue in the EEOC’s lawsuit, employees feel strongly

that the working environment has changed for the better since the Decree was entered.

Employees generally gave supervisors and managers high marks for professionalism. There has been a decrease in the level of abusive and profane conduct by supervisors intent on pressuring employees into better sales performance or employees dealing with each other, although as discussed below this remains a problem among some supervisors and employees in the Business Consultant (BC) area, where the telemarketing operation is staged.

2. The Company has fully complied with its training obligations under the Decree. Most employees found that the sexual harassment prevention training was well executed and useful to them, and believe that it has contributed to the improvement in the working environment at the Company.

3. Where violations of the anti-harassment policy are reported, they are promptly and effectively investigated and serious discipline is imposed when violations are found. The investigatory process has become increasingly effective under the new Executive Director, Human Resources.

4. There is no evidence that any substantial number of employees feel that they will be retaliated against if they report instances of sexual harassment on behalf of themselves or others. Overwhelmingly, employees reported to us that they would report such instances, mainly to their supervisors, which is one of the options provided by the Company's policy.

5. At the start of the Decree, some supervisors, including top-level ones, did not understand their responsibility to report all instances of suspected sexual harassment to Human Resources when they saw it. This has changed. The Company has effectively trained supervisors in this responsibility, and a substantial number of the investigations of internal complaints resulted when supervisors, after being contacted by affected employees, reported the matter to

Human Resources.

6. The Executive Director, Human Resources has made strong contributions to making the Decree work as intended. His performance has been particularly commendable in that when he was hired, his Department lacked basic powers that were needed to control and respond to instances of sexual harassment. The Human Resources Department received high marks in employee interviews for responsiveness and helpfulness. When problems in the implementation of the sexual harassment policy have become apparent, they have been addressed responsively. For example, when the Monitors documented that supervisors were telling their subordinates that they must bring any complaints of sexual harassment to them before reporting to Human Resources, a memorandum regarding the Human Resources Open Door Policy was sent to all employees explicitly emphasizing that employees “have the right to visit Human Resources for any issue at any time, without any fear of reprisal or retaliation from your supervisor or manager.” It further assured employees that “managers have been advised of this policy and have been told that there is no tolerance for their adverse treatment of employees based on the employees’ visits to Human Resources.” Our main concern about Human Resources, as we have stated above, is that the Executive Director is overworked. He faces the need to develop his department, respond to crises, and institutionalize procedures with minimal professional and support staff. **We recommend that the Company invest the necessary resources and give substantial personnel powers to its Human Resources operation.**

7. The spouse of a high-level manager works in the Human Resources area, creating concern among some employees that a complaint over sexual harassment or other problems to Human Resources will not be kept confidential. While there is no complaint about this employee’s performance, **we recommend that by April 1, 2012, the Company consider**

reassigning this employee to a position in a different area and that it adopt a policy that no employee in Human Resources be related to any other employee in the Company.

8. The BC work area is by far the weakest of the Company's areas in terms of the prevalence of problem behavior and the risk of sexual harassment episodes occurring. While there has been improvement in the BC area, employee interviews suggest there is still a substantial amount of inappropriate and profane behavior, including sexually explicit commentary, joking, and touching especially outside in the Company parking area during break periods and on the BC floor. As stated previously, the remaining aspects of inappropriate conduct in the BC area pose the biggest threat of recurrence of the problems that led to the EEOCs lawsuit. **We recently recommended that the Company consider monitoring the BC area and parking lots where breaks take place much the way employee telephone conversations are recorded. The use of audio and video surveillance would aid in uniformly enforcing and discouraging dress code violations, profanity, inappropriate comments and touching. The Company has agreed to explore these avenues with its security experts and report back to us by April 1, 2012.**

9. A number of employees hold the view that the Company will not impose serious discipline on misconduct by big producers or those that are protected by long-standing personal loyalty on the part of the Company's top management. We believe these perceptions have a considerable basis in reality. Human Resources must have the support of top management of the Company to hold all employees to the same standards of conduct regardless of performance or personal connections. Moreover, most other companies of similar size have implemented a hotline for anonymous complaints. **We believe ISI is sorely in need of this type of reporting mechanism. After discussing this with the Executive Director, Human Resources, he**

informed us that he would be looking into the feasibility of a third-party 800 number. We expect him to report back to us by April 1, 2012.

10. A related problem to the above problem is that the Company has a history of terminating employees for inappropriate conduct and later rehiring them. This fact has fostered the perception that the rehiring was due to the ties of the employees in question to top-level managers and/or their status as big producers. **We recommend that by April 1, 2012, the Company institute a policy that employees who are fired for misconduct related to sexual or sex-based harassment or retaliation will not be rehired under any circumstances.**

11. The Company has maintained a dress code in principle but has not adequately limited sexually provocative dressing by some employees. This is not an easy problem to control, given increasingly tolerant mores with respect to revealing dress styles in the American workplace. But given the Company's recent history, flamboyantly revealing dress, whether by women or men, is an invitation to trouble, and common sense measures to control it need to be taken. The Company has the right, and should exercise the right, to discourage excessively revealing clothing by both men and women. In response to our own observations and concerns raised during our interviews with both men and women that we shared with the Company, Human Resources has recently sent out a Dress Code Policy statement and has made it clear that (1) inappropriate dress will result in people being sent home and subject to docking of wages and/or disciplinary action and (2) all managers and supervisors will be held accountable for enforcing the Dress Code Policy across the board with potential disciplinary and/or financial ramifications for failure to enforce the Policy. Moreover, the Policy will be highlighted during orientation training for new hires. **We recommend that a sign-off on the Dress Code Policy be included in the interviewing process by April 1, 2012.** To make such efforts successful, and to

avoid a cynical reaction among rank and file employees, **we also recommend that the Company's all managers, including top managers, make clear the importance of appropriate dress among employees in their own areas and document having done so to Human Resources by April 1, 2012.**

12. Section 50(B)(3) of the Decree requires ISI to "link the handling of equal employment opportunity ('EEO') issues, including the prevention and eradication of sexual harassment, to the supervisor salary/bonus/promotion structure." Supervisors need to set the example, and there should not be differing standards and/or differing levels of enforcement among different supervisors. In several of the 17 investigations discussed earlier in this report, the Company found that supervisors had violated the Company's sexual harassment prevention policy and took action that included a suspension without pay or the loss of bonuses for a period. While such actions reflect that the Company is taking supervisor compliance seriously, **we have recently had discussions with the Executive Director, Human Resources recommending that the company also link supervisors' failure to enforce company policies (e.g., violations of the dress code) with financial ramifications. He has committed to implementing such a practice and is developing such a plan for our review. We recommend that the Company complete this process, including a systematic plan to communicate and implement this objective of the Decree to supervisors and managers and provide for its implementation by April 1, 2012.**

13. Employees widely perceive us as employees of the EEOC rather than court-appointed independent Monitors. This minor problem can be addressed by having future training (for example, new-hire orientation) clarify the role of the monitors.

14. Employees have generally appreciated the reminder and clarifying memorandums that Human Resources has sent out. **We have encouraged Human Resources to be proactive in underscoring its commitment to a respectful workplace by utilizing this communication tool on an ongoing and regular basis to highlight expectations about conduct and adherence to Company policies and to outline acceptable and unacceptable behavior. We expect an upcoming memorandum to address the use of profanity and/or slurs by April 1, 2012. Based on our recommendation, Human Resources has also committed to issuing to all employees quarterly reports beginning June 1, 2012 that summarize in general terms the number of sexual harassment and sex-based harassment or related retaliation complaints, the nature of the violations, and disciplinary outcomes.**

VII. CONCLUSION

Although there have been certain problems as explained above, the Company is presently in compliance with the Decree and making good progress toward implementing its specific responsibilities under it. We will continue to monitor the Company's activities carefully and look forward to continuing the productive relationship that has been established with its Human Resources Department.

/s/ Nancy B. Kreiter

Nancy B. Kreiter

/s/ George F. Galland, Jr.

George F. Galland, Jr.

February 23, 2012

APPENDIX Monitor Recommendations

A number of recommendations to the Company to effectuate the purposes of the Decree were made throughout our work to date. These recommendations and the Company's responses have been thoroughly discussed in this First Year Report. Below is a list of the *prospective* recommendations and guidance we have articulated in this Report.

IV. Processing of internal complaints of sexual harassment

We recommend that the Company be attentive to upholding its EEO Policy and Policy Against Sexual and Sex-Based Harassment relative to clients. (page 10)

V. Training on the Company's sexual harassment policy

Our only recommendation at this time related to training is that next year the Policy Against Sexual and Sex-Based Harassment be the key training policy, with the general non-harassment Policy being covered secondarily.

VI.B. Impressions and conclusions as to the present situation and steps that need to be taken

We recommend that the Company invest the necessary resources and give substantial personnel powers to its Human Resources operation. (page 22)

We recommend that by April 1, 2012, the Company consider reassigning this employee to a position in a different area and that it adopt a policy that no employee in Human Resources be related to any other employee in the Company. (pages 22-23)

We recently recommended that the Company consider monitoring the BC area and parking lots where breaks take place much the way employee telephone conversations are recorded. The use of audio and video surveillance would aid in uniformly enforcing and discouraging dress code violations, profanity, inappropriate comments and touching. The Company has agreed to explore these avenues with its security experts and report back to us by April 1, 2012. (page 23)

We believe ISI is sorely in need of this type of reporting mechanism. After discussing this with the Executive Director, Human Resources, he informed us that he would be looking into the feasibility of a third-party 800 number. We expect him to report back to us by April 1, 2012. (pages 23-24)

We recommend that by April 1, 2012, the Company institute a policy that employees who are fired for misconduct related to sexual or sex-based harassment or retaliation will not be rehired under any circumstances. (page 24)

We recommend that a sign-off on the Dress Code Policy be included in the interviewing process by April 1, 2012. (page 24)

We also recommend that the Company's all managers, including top managers, make clear the importance of appropriate dress among employees in their own areas and document having done so to Human Resources by April 1, 2012. (page 25)

We have recently had discussions with the Executive Director, Human Resources recommending that that the company also link supervisors' failure to enforce company policies (*e.g.*, violations of the dress code) with financial ramifications. He has committed to implementing such a practice and is developing such a plan for our review. We recommend that the Company complete this process, including a systematic plan to communicate and implement this objective of the Decree to supervisors and managers and provide for its implementation by April 1, 2012. (page 25)

We have encouraged Human Resources to be proactive in underscoring its commitment to a respectful workplace by utilizing this communication tool on an ongoing and regular basis to highlight expectations about conduct and adherence to Company policies and to outline acceptable and unacceptable behavior. (page 26)

We expect an upcoming memorandum to address the use of profanity and/or slurs by April 1, 2012. (page 26)

Based on our recommendation, Human Resources has also committed to issuing to all employees quarterly reports beginning June 1, 2012 that summarize in general terms the number of sexual harassment and sex-based harassment or related retaliation complaints, the nature of the violations, and disciplinary outcomes. (page 26)

CERTIFICATE OF SERVICE

Lisa Mecca Davis certifies that she caused a copy of the foregoing Report to be served upon all counsel of record, by this Court's electronic-filing system, this 23rd day of February, 2012.

/s/ Lisa Mecca Davis
Lisa Mecca Davis