

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
) C.A. NO.
 BLACK WOLF, INC.)
)
 Defendant.)
_____)

CONSENT DECREE

INTRODUCTION

1. On _____, the United States filed its complaint in this action alleging that the Defendant violated Title II of the Civil Rights Act of 1964, 42 U.S. C. §§ 2000a et seq., by discriminating against African-Americans.

2. Defendant Black Wolf, Inc., owns and operates a restaurant known as “The Mounnty” on Route 30 in Chester, West Virginia. The chief executive officer of Black Wolf, Inc., is George W. Hoyt. In the Complaint, the United States alleges that the Defendant has engaged in a pattern and practice of denying to African-American persons, on the basis of race, the full use and enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of The Mounnty on the same basis as such are provided to white members of the general public. For the purposes of establishing jurisdiction, the parties stipulate that at all times relevant to the allegations of the United

States, The MOUNTY is a “place of public accommodation” within the meaning of 42 U.S. C. § 2000a (b) (3), and that its operations “affect commerce” within their meaning of 42 U.S. C. § 2000a (c).

3. At this time, the United States and the Defendant have agreed that, in order to avoid protracted and costly litigation, their controversy should be resolved without further litigation, through the terms of this Consent Decree. Therefore, without a trial or adjudication on the merits, the United States and the Defendant have consented to the entry of this Decree.

4. The Defendant, Black Wolf Inc., managed by George Hoyt, operates the business establishment known as The MOUNTY, located on Route 30, Chester, West Virginia.

5. The MOUNTY is a restaurant where persons are served food and alcoholic and non-alcoholic beverages.

6. The Defendant has, acting through its employees and agents, allegedly implemented a policy and practice of denying to African-American persons, on account of race and/or color, the full and equal enjoyment of the goods, services, facilities, and privileges of The MOUNTY on the same basis as it makes such available to non-African-American persons. This policy and practice allegedly has been implemented, among other ways, by requiring that African-Americans display “membership cards” before agreeing to serve African-American persons, while not demanding membership cards from non-African-American persons.

7. Specifically, if this case went to trial, the United States would present testimony proving that, on at least two separate occasions, African American patrons were denied service at The

Mounty. The United States would also present evidence proving that, on two separate occasions, African American testers were denied service at The Mounty.¹

8. Part I of this Order prohibits future conduct in violation of Title II of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000a et seq., with respect to the operation of The Mounty. Part II of this Order describes a compliance plan designed to ensure future compliance with federal law and to notify prospective customers of The Mounty that the owners and operators make the goods, services, facilities, privileges, advantages, and accommodations offered at The Mounty available to all persons without regard to their race or color. Part III provides terms for administration of this Order.

I.

A. It is hereby, **ORDERED, ADJUDGED, and DECREED** that the Defendant, its agents, employees, successors, and all other persons in active concert or participation with it in the ownership and operation of The Mounty, located on Route 30, Chester, West Virginia, are enjoined from denying to any person, because of race or color, the full and equal enjoyment of all of the goods, services, facilities, privileges, advantages and accommodations of such establishment. Such conduct includes: (1) failing or refusing on account of race or color, to admit any person to the premises of such establishment; (2) discriminating on the basis of race or color in the terms, conditions, or privileges of admission to such establishment, or, because of race or color, providing different information about the terms, conditions, or privileges of admission; and (3) denying or deterring admission to such establishment to any person because of race or color, by adopting any

¹Testers are persons who pose as patrons of places of public accommodation for purposes of determining if the business discriminates on the basis of race by treating African American patrons differently than white patrons.

practices or procedures in the management of such establishment designed to discourage persons on the basis of race or color from patronizing such establishment.

B. It is further **ORDERED, ADJUDGED, and DECREED** that all of defendant's officers and employees, including employees who may be hired in the future, are required to receive personal notice of the requirements of this Order pursuant to the requirements of paragraph II.C. of this Order.

II.

It is **FURTHER ORDERED** that:

A. Within 15 days of the date of entry of this Order, Defendant shall erect and maintain at each public entrance to The Mounty a printed sign stating that the establishment is open to all members of the public without regard to race or color. Such sign shall be printed in dark letters on a contrasting background and shall be located and maintained in a place that is clearly visible to all patrons as they enter the premises. Such sign shall include a statement that any person who feels he or she has been discriminated against on the basis of race or color may write or call the Housing and Civil Enforcement Section of the Civil Rights Division of the United States Department of Justice, 950 Pennsylvania Avenue, Washington, D.C. 20530, telephone number (800) 896-7743. The text for such sign is specified in Attachment A, and the lettering for such sign shall be no smaller or less visible than that in Attachment A.

B. Within sixty (60) days of the date of entry of this Order or such date that the parties agree is mutually satisfactory in light of the availability of the training resources anticipated by this paragraph, the Defendant and its employees or agents with responsibility for the management and provision of services at The Mounty shall attend a program of educational training concerning the substantive provisions of Title II and their responsibilities under the law. This training, which shall

be no less than 2 hours in duration, shall be conducted by an organization with experience in providing training on civil rights issues which is proposed by the Defendant and approved by the Court. The costs of this program shall be borne by the Defendant. All persons attending such a program shall have their attendance certified in writing by the person conducting the educational program.

C. The Defendant shall, no later than ten days after entry of this Order, apprise each of its employees, agents, partners, or any other person who provides services in any capacity with regard to The Mouny of the contents of this Order, their obligations under Title II of the Civil Rights Act of 1964, and the possibility of contempt sanctions. The Defendant shall furnish each such employee, agent, partner, or other person covered by this paragraph, with a copy of this Order. Each employee, agent, partner, or other person covered by this paragraph shall sign a statement in the form of Attachment B, acknowledging that he or she has received, read, and understands a copy of this Order, and declaring that he or she will perform his or her duties in accordance with this Order. New employees shall be apprised of the contents of this Order and their obligations under Title II of the Civil Rights Act of 1964 when their employment commences, shall be provided a copy of this Order; and shall execute a statement, as prescribed herein no later than five days following their first day of employment.

D. In order to ensure that all persons are made aware that The Mouny will admit persons of all races and to overcome any legacy stemming from the Defendant's prior discriminatory practices, the Defendant shall, when it places advertisements during the pendency of this Consent Decree in any advertising media (e.g., television, radio, telephone book, internet), include

information in the advertisements indicating that The Mounty is open to all members of the public on an equal basis, without regard to race, color, religion, or national origin.

E. The Defendant shall, no later than 60 days after the date of entry of this Order, serve a report evidencing its compliance with this Order upon Allen W. Levy, Esq., United States Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530. This report shall include the following:

1. A photograph of each public entrance to The Mounty, clearly showing the signs required under paragraph II.A of this Order;
2. A list of all advertisements as required under paragraph II.D of this Order, made public in any manner since the entry of this Order, together with representative samples of such advertisements;
3. The statements signed by any and all employees pursuant to paragraph II.C of this Order.
4. Written certification by the person conducting the educational program referred to in section II.B.

F. One year after the date of entry of this Order, and every year thereafter for three years from the date of entry of this Order, the Defendant shall serve upon the Housing and Civil Enforcement Section a written report evidencing continuing compliance with this order. This report shall contain the following information:

1. Representative samples of all advertising for the previous one-year period, as required by paragraph II.D above;

2. Sworn employee statements of new employees as required by paragraph II.C;

3. Any written or oral complaint which comes to the attention of the Defendant, either personally or through its managers, officers, directors or shareholders, or employees, involving any discrimination at The Mountry on the basis of race or color in violation of Title II. If the complaint is written, the Defendant shall provide the original; if the complaint is oral, the Defendant shall provide a written summary of it along with the name or other identifying information of the complainant. The Defendant shall include full details of the complaint, including the complainant's name, address and telephone number, and any action taken or proposed by the Defendant in response to the complaint;

4. Information regarding any change in name or the location of the Defendant's operation of The Mountry, including the address of any new location and the dates of operation at that address;

5. Notification of any new ownership or management interest the Defendant has acquired or developed in any place of public accommodation, as defined in Title II of the Civil Rights Act of 1964, during the preceding one-year period. Such notification shall include the name of the establishment in which the Defendant has acquired or developed such interest, the address of such establishment, the goods and/or services provided by such establishment, and the dates of operation of such establishment. Upon reasonable request, the Defendant shall provide to the United States copies of pertinent records or documents; and

6. Notification of whether, during the preceding one-year period, the Defendant has either ceased operating, or has licensed his name to others for the purpose of operating The Mouny. Upon reasonable request, the Defendant shall provide to the United States copies of pertinent records or documents.

G. All provisions of this Decree shall apply to the Defendant, its employees and agents, and to Defendant's successors, to the extent that their cooperation is required in implementing Sections I - II of this Decree, and to anyone acting in whole or in part under the direction of Defendant in connection with the treatment of and /or service to The Mouny's patrons.

H. At any time during the term of this Consent Decree, the United States may conduct testing at The Mouny or at any other place of public accommodation owned and/or managed by the Defendant for the purpose of determining whether Defendant is violating the provisions of Title II of the Civil Rights Act of 1964. If the United States establishes that Defendant has violated any provision of this Order with evidence obtained through testing or other evidence, the United States may seek a ruling holding Defendant and any such agents or employees in contempt of court and the award of a monetary penalty and any other appropriate relief designed to ensure Defendant's compliance with the requirements of Title II of the Civil Rights Act of 1964.

I. The United States' right to enforce any of the provisions of this Consent Decree shall not be prejudiced by any delay in taking such enforcement action.

III.

This Court shall retain jurisdiction of this case for purposes of enforcing this Consent Decree, which shall be effective for a period of three years following the date of entry by the Court.

It is so **ORDERED** this _____ day of _____, 2003.

UNITED STATES DISTRICT JUDGE

For the United States:

JEANINE M. WORDEN
Deputy Chief
ALLEN W. LEVY
Attorney
Housing and Civil Enforcement Section
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-2188

For Defendant:

GEORGE HOYT

JOSEPH L. LUDOVICI
Aronson, Fineman & Davis
124 East 5th Street
East Liverpool, Ohio 43920-3099
(330) 385-3900
Attorney for Defendant

ATTACHMENT A

See sign3.wpd

ATTACHMENT B

I have been given and I have read a copy of the Consent Decree entered in United States of America v. Black Wolf, Inc., Northern District of West Virginia, Civil Action No. xxxxxx. I understand the terms of that Decree, and I further understand that Federal law guarantees that no person may be denied, on account of their race or color, the full use and enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place such as The Mountry restaurant. With that understanding, I agree that, as a condition of my providing goods and/or services on behalf of The Mountry or any other place of public accommodation owned or managed by Black Wolf, Inc., neither I nor any other person who serves as my agent in any capacity, shall discriminate in any manner on account of race or color in the provision of such goods and/or services. If I violate the terms of the Consent Order, I understand that I will be subject to the contempt power of the presiding federal court, with possible sanctions including civil penalties.

I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Signature

Home Address

Home Telephone Number