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U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA

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LORETTA G. WHYTE  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
B & S PROPERTIES OF ST. BERNARD, )  
L.L.C.; FOSCO ENTERPRISES, INC.; )  
BERKELEY FOSTER; LINDA FOSTER; )  
LONNIE FOSTER; and SELENA )  
FOSTER, )  
)  
Defendants. )  
)

Civil No. 04-1063 (Sect. N Mag. 4)

CONSENT ORDER

**I. Factual and Procedural Background**

1. The United States initiated this action on April 15, 2004, against B & S Properties of St. Bernard, LLC, ("B & S"); Fosco Enterprises, Inc., ("Fosco"); Berkeley Foster; Linda Foster; Lonnie Foster; and Selena Foster (collectively "Defendants"). In its complaint, the United States alleges that Defendants violated the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 - 3619 ("the Act"), by discriminating on the basis of race or color with respect to their ownership and management of residential rental apartments, or dwellings,

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located throughout Chalmette and St. Bernard Parish, Louisiana.

2. The United States alleges that were this case to proceed to trial, the United States would present evidence including the following:
  1. At all relevant times prior to the filing of this lawsuit, Defendants owned and operated numerous residential rental properties (or dwellings) in Chalmette, Louisiana, including 3233, 3301, 3305, 3309, 3313, 3317, 3321, 3325, 3329, 3333, 3401, 3405, 3409, 3413, 3417, 3421, and 3501 Golden Drive ("Golden Drive properties"); 3605, 3607, 3609, 3611, 3615, 3624, and 3626 Jupiter Drive ("Jupiter properties"); 304, 308, 312, and 316 Oak Tree ("Oak Tree properties"); 3405-07 and 3413-15 Rose Street; 2001 Gallo Drive; 3620, 3622, 3700, and 3702 Juno Drive; 428 E. St. Avide; 2602 Chalona; and 3217 Decomine St. Defendants also owned 2401 Jamie and 5601 and 5603 Fourth Street in Violet, Louisiana. In August and September 2004, Defendants sold all of the Golden Drive properties except 3333 and 3501 Golden Drive. They retained all of the other rental properties.
  2. In June, July, and September, 2003, the United States performed fair housing tests in which similarly situated white testers and black testers visited Defendants' rental office on 204 West Judge Perez Drive ("rental office" or "Judge Perez rental office") and inquired about the availability of two-bedroom apartments. Audio recordings of these tests and other evidence obtained by the Justice Department indicated the following:
    - i. On June 4, 2003, a white male tester telephoned the rental office and was

told by Defendant Lonnie Foster that two-bedroom apartments at their Golden Drive and Jupiter properties would become available in the next few days. Six days later, a female African-American tester visited the rental office and inquired about renting a two-bedroom apartment. Lonnie Foster then showed the black tester an apartment at Defendants' Oak Tree property. Two days later, on June 12, 2003, a white female tester visited the office and asked about renting a two-bedroom apartment. Defendant Selena Foster arranged for Lonnie Foster to show the tester an apartment on Golden Drive. When the white tester called later in the day and asked if anything else was available, Lonnie Foster said a unit at Oak Tree was vacant but that it would not be appropriate for her as a single woman.

- ii. On July 16, 2003, a white male tester called the rental office and was advised of available two-bedroom apartments on Golden Drive and Jupiter Drive. On July 23, 2003, a white male tester who visited the office was informed by a daughter of Lonnie Foster and Linda Foster that a two-bedroom unit on Golden Drive was available and that the tester should drive by it and call back to arrange a showing if he was interested. The next day, July 24, 2003, Linda Foster arranged for Lonnie Foster to show the white tester the Golden Drive apartment. He told the tester of two other available apartments on Golden Drive and Jupiter Street. A few hours later, at 1:30 pm on July 24, 2003, a black male tester inquired at the rental office about the availability of two-bedroom apartments. Linda Foster told

the tester she had nothing available to show or rent and that there were four people ahead of him on a waiting list for two-bedroom units.

- iii. On September 11, 2003, a white male tester called the rental office and was told that a two- bedroom apartment should be available for mid-October and that others may become available as maintenance was completed on them. On September 15, 2003, a black tester visited the rental office and inquired about two-bedroom apartments. Defendant Selena Foster told the tester she did not have "a thing" available and that he should not inquire again until after October 1, 2003. On September 16, 2003, a white male tester visited the rental office, also seeking a two-bedroom apartment. Lonnie Foster told the tester a two-bedroom unit on Golden Drive would be available in early October and that other units could become available in the interim. A few hours later the same day, the black tester who had visited the day before returned and asked to see a two-bedroom apartment. Lonnie Foster told him there were no two-bedroom units available. However, when the white tester returned the following day, September 17, 2003, and asked to see a two-bedroom unit, Defendant Selena Foster arranged for the white tester to inspect a Golden Drive apartment and said a similar unit would soon be available. The employee who showed the unit to the tester informed him of two upcoming vacancies in the same complex.
- iv. Subsequent discovery showed that each of the Golden Drive and Jupiter

apartments that was discussed during the tests was later rented to a white person.

3. The United States alleges that the conduct of Defendants as described in the preceding paragraphs constitutes a refusal to rent, a refusal to negotiate for the rental of, or otherwise making unavailable or denying dwellings to persons because of race or color, in violation of 42 U.S.C. § 3604(a); discrimination against persons in the terms, conditions or privileges of rental, or in the provision of services or facilities in connection therewith, because of race or color, in violation of 42 U.S.C. § 3604(b); and representation to persons because of race or color that dwellings were not available for rental when such dwellings were in fact so available, in violation of 42 U.S.C. § 3604(d).
4. The United States further alleges that Defendants' conduct as described above constitutes a pattern or practice of resistance to the full enjoyment of rights granted by the Act; and a denial to a group of persons of rights granted by the Act, which denial raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).
5. Defendants do not admit the contentions and allegations of the United States set forth above, and deny liability in this action. While Defendants are prepared to defend this action through trial, Defendants desire to avoid costly and protracted litigation. Accordingly, Defendants believe the claims should be resolved without the necessity of a trial.
6. The United States also desires to avoid costly and protracted litigation and agrees that the claims against Defendants should be settled and resolved without the necessity of a trial. The United States believes that the allegations in its Complaint justify the remedies agreed

to by the parties and set forth below. The parties have agreed to the entry of this Consent Order, as indicated by the signatures below, as a full and final resolution of all claims of violation of the Fair Housing Act based on race or color that were alleged or could have been alleged in this action pursuant to 42 U.S.C. § 3614(a). Therefore, it is **ORDERED, ADJUDGED and DECREED** as follows:

## **II. Injunction**

7. Defendants, their agents, employees, successors, and all persons in active concert or participation with them are hereby enjoined, with respect to the rental of dwellings, from:
  1. Refusing to rent a dwelling, refusing or failing to provide or offer information about a dwelling, or otherwise making unavailable or denying a dwelling to any person because of race or color;
  2. Discriminating against any person in the terms, conditions or privileges of renting a dwelling because of race or color;
  3. Misrepresenting to any person because of race or color that any dwelling is not available for inspection or rental when such dwelling is, in fact, so available.

## **III. Nondiscrimination Policies and Procedures**

8. Defendants' responsibilities under this Consent Order shall apply to each and every dwelling unit in which any Defendant has an ownership, management, or other financial interest. Dwelling units subject to this Order are hereinafter referred to as "covered dwelling units," a current list of which is attached as Exhibit A. Defendants' signatures to this Order serve as a certification of the completeness and accuracy of this list.
9. Defendants shall prepare and implement uniform, non-discriminatory Policies and

Procedures regarding the rental of covered dwelling units that shall be applied equally to all applicants, actual and prospective, regardless of their race or color.

10. Within thirty (30) days of the entry of this Order, Defendants shall distribute the Nondiscrimination Policies and Procedures to all of their employees, agents, or anyone acting under their direction, who have responsibility for showing, renting, or managing any and all covered dwelling units, and these policies and procedures will be reviewed, along with a question and answer session, with each employee, agent, or anyone acting under Defendants' direction, on an annual basis thereafter. The text of the Nondiscrimination Policies and Procedures shall be as set forth in Exhibit B hereto.

#### **IV. Notice to Public of Nondiscrimination Policies**

11. Within thirty (30) days after the date of entry of this Consent Order, Defendants shall take the following steps to notify the public of their nondiscriminatory policies:
  1. Prominently post in the rental office at the Judge Perez rental office and at any other office Defendants may currently or subsequently use for the rental of dwellings, a fair housing sign no smaller than ten (10) inches by fourteen (14) inches that indicates that all apartments are available for rent on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.
  2. Whenever any covered dwelling unit is available, Defendants shall prominently post an easily readable "For Rent" or "Vacancy" sign or notice at the apartment building in which the dwelling unit is vacant and at the Judge Perez rental office (or other office used for the rental of the vacant dwelling). The sign or notice shall

include the slogan "Equal Housing Opportunity" and/or the fair housing logo.

Such slogan and logo shall be prominently displayed and easily readable.

3. Include the words "Equal Housing Opportunity" and/or the fair housing logo in all rental advertising conducted by Defendants, their agents or employees, in newspapers, flyers, handouts, telephone directories and other written materials; on radio, television or other media broadcasts; and on all billboards, signs, pamphlets, brochures and other promotional literature, provided that this requirement does not compel Defendants to advertise in any of these media, but does require compliance with this provision whenever Defendants so advertise. The words and/or logo shall be prominently placed and easily readable.

4. Include the following phrase in the standard rental application and the standard rental agreement used for covered rental dwelling units, using letters of equal or greater size to those of the text in the body of the document:

We are an equal housing opportunity provider. We do not discriminate on the basis of race, color, sex, national origin, religion, disability or familial status (having children under age 18).

5. Within thirty (30) days of the entry of this Order, provide written notification to the designated organizations listed in Exhibit C, along with the name and address of all covered dwelling units in the state of Louisiana, that Defendants rent apartments and that their policy is to rent apartments subject to uniform, nondiscriminatory standards to all qualified persons without regard to race, color, national origin, religion, sex, disability, or familial status (having children under age 18).



## V. Mandatory Training

12. Within thirty (30) days of the entry of this Consent Order, Defendants shall provide a copy of this Order and the Nondiscrimination Policies and Procedures to their agents and employees involved in showing, renting, or managing any and all covered dwelling units and secure the signed statement from each agent or employee acknowledging that he or she has received and read the Order and the Nondiscrimination Policies and Procedures, has had the opportunity to have questions answered about the Order and Nondiscrimination Policies and Procedures, and agrees to abide by the relevant provisions of the Order and said policies and procedures. This statement shall be in the form of Exhibit D.
13. During the term of this Order, within five (5) days after each new agent or employee becomes involved in showing, renting, or managing any covered dwelling units, Defendants shall provide a copy of this Order and the Nondiscrimination Policies and Procedures to said agent or employee involved in showing, renting, or managing any and all covered dwelling units and secure the signed statement from each agent or employee acknowledging that he or she has received and read the Order, had the opportunity to have questions about the Order answered, and that he or she has also received and read the Nondiscrimination Policies Procedures, and agrees to abide by said policies and procedures and the relevant provisions of the Order. This statement shall be in the form of Exhibit D.
14. Within one hundred eighty (180) days from the date of entry of this Order, each individual Defendant and each owner or officer of the corporate Defendants (B & S Properties and Fosco) involved in management and administration, and all agents and employees of each

Defendant involved in showing, renting, or managing any covered dwelling units shall undergo in-person training on the Fair Housing Act, with specific emphasis on discrimination on the basis of race or color. The training shall be conducted by an independent, qualified third party, approved in advance by the United States, and any expenses associated with this training shall be borne by Defendants. Defendants shall obtain from the trainer certifications of attendance, executed by each individual who received the training, confirming their attendance, in a form acceptable to the United States. This confirmation shall include the name of the course, the date the course was taken, and the length of the course and/or time within which the course was completed. The training specified in Part X of this Consent Order shall satisfy this requirement. Defendant Berkeley Foster may satisfy this training requirement through a videotaped training session, provided that the cost of such is borne by Defendants.

15. At a minimum, the training required in the preceding paragraph shall consist of the following:
  1. instruction on the requirements of all applicable federal and state housing discrimination laws; and
  2. a question and answer session for the purpose of reviewing the foregoing areas.

#### **VI. Processing Rental Applications, Record Keeping, and Compliance Testing**

16. Processing Rental Applications

Within ninety (90) days from the date of entry of this Order, Defendants shall develop and implement, with respect to all covered dwelling units in the state of Louisiana, objective, uniform, non-discriminatory standards and procedures for the processing of applications,

the establishment and maintenance of an Availability List, the establishment and maintenance of a Waiting List and a procedure for notifying people who are on the Waiting List about an available unit, and the approval of applicants for the rental of available dwellings and/or positions on the Waiting List. Such standards and procedures shall be submitted to the United States for approval in advance of their implementation and shall be consistent with the provisions of this Section. The standards and procedures shall be posted and prominently displayed in the Judge Perez rental office and in any office where there is rental activity and/or personal contact with applicants for, and a copy of these standards and procedures shall be made available upon request to any applicant for the rental of a dwelling. For the duration of this Order, these rental standards and procedures may be modified only if written notice is given to counsel for the United States thirty (30) days before modifications are to take effect.

17. Record Keeping

With respect to the rental of covered dwelling units, within thirty (30) days from the date of this Order, Defendants shall ensure that each of the following are maintained and updated as new information becomes available:

1. An Availability List on a daily basis that includes the address and apartment number of each unit known to be available or reasonably expected to be available for rental within thirty (30) days; monthly rent for each such unit; security deposit for each such unit; the date Defendants or their agents or employees were first informed it would be available for rental, and the first date it would be available for rental or occupancy by a new tenant. Defendants and their agents/employees

shall share information on the Availability List with each person who visits or calls the rental office to inquire about the availability of rental dwellings;

2. Guest Cards for all persons who visit or inquire about dwelling units at the rental office, containing information that indicates the date of the visit or inquiry, the visitor's name, address, daytime and evening telephone numbers, and the date on which they wish to move. Defendants shall note on the Guest Card the dwelling units the person was shown and whether the person was given an application. For such persons who visit the rental office, Defendants shall also note the race or color of each person on the Guest Card, based on the Defendant's, employee's or agent's good faith observation;
3. A Waiting List for all persons who inquire by telephone or in person about renting a dwelling from Defendants and who are informed that there are no vacancies or available apartments to rent. This Waiting List shall indicate the date of the visit or telephone call, the visitor's name, address, daytime and evening telephone numbers, the date on which the person wishes to move and any other relevant information (such as a preference regarding the number of bedrooms). With regard to those who inquire in-person, Defendants shall note the race of such individuals (based on the Defendant's, employee's or agent's good faith observation). The Defendants shall also note on the waiting list the date, time, and employee or other person who contacted any individual to inform him or her of any vacancies or available apartments, and the manner of each attempt to contact persons on the list; and

4. A Rental Application Log maintained on a daily basis that sets forth the name and race of the applicant (based on the Defendant's, employee's, or agent's good-faith observation), whether the application for tenancy was approved or rejected, the building and unit number occupied for all approved applicants, and a detailed explanation for all rejected applications.

18. Compliance Testing

The United States may take steps to monitor Defendants' compliance with this Order including, but not limited to, conducting fair housing tests at any dwelling in which any Defendant, now or in the future, has a direct or indirect ownership, management, or financial interest.

### **VII. Reporting Requirements**

19. Within ninety (90) days of the date of entry of this Consent Order, and every six (6) months thereafter for the duration of this Order, Defendants shall deliver to counsel for the United States<sup>1</sup> a report containing information about Defendants' compliance efforts during the preceding reporting period, including but not limited to:

1. Copies of all mandatory education acknowledgments signed by Defendants, their agents and employees, and all certifications of attendance of each participant in such educational program, pursuant to Section V of this Order;

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<sup>1</sup> All documents or other communications required by this Order to be sent to counsel for the United States shall be addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-32-196, United States Department of Justice, 950 Pennsylvania Avenue N.W.- G St., Washington, D.C. 20530, or as otherwise directed by the United States. If the Consent Order requires transmission by facsimile, the communication shall also be sent via facsimile to (202) 514-1116.

2. Copies of all Availability Lists, Guest Cards and other information recorded by any means related to any inquiries regarding the availability of rental dwellings, including Rental Application Logs, and Waiting Lists maintained pursuant to Section VI of this Order;
  3. Copies of lists setting forth the occupancy of each covered dwelling unit by address and apartment number, including the name and race of each tenant (based on the Defendant's, employee's or agent's good faith observation) in that dwelling unit during the reporting period; and
  4. Photographs of each office in which rental activity is conducted, showing the fair housing signs required by Section IV of this Order;
  5. An updated list of all covered dwelling units; and
  6. Copies of checks made to the organization selected for affirmative fair housing efforts as further described in Section X of this Order.
20. During the period in which this Order is in effect, Defendants shall preserve all records that are the source of, contain, or relate to any of the information pertinent to the obligations under this Order, including all rental applications, leases, and rental roll ledgers, and occupancy lists for all covered dwelling units as well as records relating to the transfer of interest in dwelling units as set out in Section X below. Upon reasonable notice to counsel for Defendants, representatives of the United States shall be permitted to inspect and copy all such records at any and all reasonable times or, upon request by the United States, Defendants shall provide copies of such documents.
21. During the period in which this Order is in effect, Defendants shall notify counsel for the

United States in writing within fifteen (15) days of receipt of any written or oral complaint against Defendants, or Defendants' agents or employees, regarding racial discrimination in housing. If the complaint is written, Defendants shall provide a copy of it with the notification. The notification shall include the full details of the complaint, including the complainant's name, address, and telephone number. Defendants shall also promptly provide the United States all information it may request concerning any such complaint and shall inform the United States within fifteen (15) days of any resolution of such complaint.

### **VIII. Compensation of Aggrieved Persons**

22. Defendants will pay a total of thirty-thousand dollars (\$30,000.00) for the purpose of compensating persons whom the United States has identified as aggrieved persons and who have been deposed by counsel for Defendants. A list of such persons (hereinafter "identified aggrieved persons") identifying the specific amount to be paid to each person is attached as Exhibit E. Within ten (10) business days of the date of entry of this Consent Order, Defendants shall deliver to counsel for the United States checks made payable to each such person, in the amounts listed in Exhibit E.
23. Within ten (10) business days after entry of this Consent Order, Defendants shall deposit an additional sum of thirty thousand dollars (\$30,000.00) into an interest-bearing account for the purpose of compensating persons whom the Court determines may have been harmed by Defendants' discriminatory rental practices (hereinafter "unidentified aggrieved persons"). In addition, within ten (10) business days of the entry of this Order, Defendants shall submit proof to the United States that this account has been established

and the funds deposited.

24. Within sixty (60) days after entry of this Order, Defendants shall arrange and publish a Notice to Potential Victims of Housing Discrimination (“Notice”) as follows:

1. The Notice shall be published on at least four (4) occasions in the ‘A’ Section (or News Section) of The Saint-Bernard News, including at least two (2) occasions on Sunday, in a space measuring at least one-quarter (1/4) of a page;
2. The Notice shall also be published on the same four (4) occasions in the ‘A’ Section (or News Section or other comparable Section designated for Zone G advertising) of The Times-Picayune, Advertising Zone G only (St. Bernard Parish), in a space measuring at least one-quarter (1/4) of a page;
3. The Notice shall also be published on the same four (4) occasions in the ‘A’ Section (or News Section) of [a newspaper with a predominately African-American readership] in a space measuring at least one-quarter (1/4) of a page;
4. Each Notice shall set forth a summary of the legal and evidentiary contentions of the United States and a general statement of the relief provided under this Consent Order. Each Notice shall also contain a statement that the United States seeks information from any persons who claim to have been subjected to racial discrimination by Defendants in connection with inquiring about, applying for or obtaining rental housing, or with respect to the terms or conditions or privileges of rental housing. Each Notice shall invite such persons to contact counsel for the United States concerning their complaints within one hundred twenty (120) days from the entry of this Order. The Text of this Notice is set forth in Exhibit F;



5. Defendants shall provide a copy of the newspapers containing each such Notice to counsel for the United States within ten (10) days after publication of the Notice. Within fifteen (15) days of the entry of this Order, Defendants shall also send a copy of the Notice to each of the organizations identified in Exhibit C.
25. Defendants shall produce any rental/tenancy records, or any other records in the possession or control of Defendants, their agents or employees, upon notice to Defendants' counsel, which the United States believes to be useful in identifying persons who may be entitled to relief under this Order. Upon reasonable notice, Defendants shall provide such rental/tenancy records or shall permit representatives of the United States to receive copies of such rental/tenancy records through Defendants' counsel.
26. Nothing in this order shall prevent the United States from making any additional efforts that it deems appropriate to locate and provide notice to potential aggrieved persons.
27. Unidentified aggrieved persons, as described above in paragraph 23, shall have one hundred twenty (120) days from the date of the entry of this Order to contact the United States in response to this Notice.
28. The United States shall investigate the claims of the unidentified aggrieved persons and, within one hundred eighty (180) days from the entry of this Order, shall make a preliminary determination of which persons are aggrieved and an appropriate amount of damages that should be paid to each such person. The United States will inform Defendants in writing of its preliminary determinations, together with a copy of a sworn declaration from each aggrieved person setting forth the factual basis of the claim. The Defendants shall have thirty (30) days to review the declaration and provide any

documents or information that they believe may refute the claim to the United States.

29. After receiving Defendants' comments, the United States shall submit its final recommendations to the Court for approval, identifying the aggrieved persons and an appropriate amount of damages that should be paid to each such person, together with a copy of the sworn declarations and any documents or information submitted by Defendants. Within ten (10) days of a Court order providing for the distribution of funds to aggrieved persons, Defendants shall deliver to counsel for the United States checks payable to the aggrieved persons in the amounts approved by the Court.
30. In no event shall the aggregate of all checks to the unidentified aggrieved persons exceed the sum of thirty-thousand dollars (\$30,000.00) plus accrued interest.
31. When counsel for the United States has received a check from Defendants payable to an aggrieved person and a signed release in the form of Exhibit G from the aggrieved person, counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to counsel for Defendants. No aggrieved person shall be paid until he/she has signed and delivered to counsel for the United States the release at Exhibit F.
32. After the satisfaction of paragraphs 23-31, and expiration of the corresponding time periods, any money remaining in the Settlement Fund shall be released to Defendants.

#### **IX. Civil Penalty**

33. Within thirty (30) days after the entry of this Consent Order, Defendants shall pay the sum of one-hundred thousand dollars (\$100,000.00) to the United States as a civil penalty, pursuant to 42 U.S.C. 3614(d)(1)(C). This payment shall be delivered to counsel for the United States in the form of a cashier's check payable to the "United States Treasury."

## **X. Affirmative Fair Housing Efforts**

34. Defendants shall fund, as provided below, two, annual educational seminars in and around Chalmette, Violet, and Saint Bernard Parish, Louisiana, for the purpose of expanding the community's understanding and knowledge regarding the requirements of the Act, with particular reference to its prohibition on discrimination on the basis of race or color in the provision of rental housing. Both educational seminars shall be made available without cost to landlords, property managers, tenants, and the general public in and around Chalmette, Violet, and Saint Bernard Parish, and shall be conducted by an organization approved in advance by the United States. Defendants shall provide the United States with a proposal for such educational seminars, and the United States and Defendants shall cooperate in finalizing the proposal.
35. Within ninety (90) days of entry of the Consent Order, Defendants shall pay five-thousand dollars (\$5,000) to the selected organization to fund the first educational seminar. Within one year and ninety (90) days of entry of the Consent Order, Defendants shall make a second payment of five-thousand dollars (\$5,000) to the selected organization to fund the second educational seminar, for a total payment of ten-thousand dollars (\$10,000) over two years. Each of the two annual payments of five-thousand dollars (\$5,000) shall be used by the organization for the sole purpose of developing, promoting, advertising, and conducting that year's educational seminar. The organization shall agree, as a condition for receiving said funds, to provide to counsel for Defendants and the United States an annual accounting that demonstrates its use of the funds for the express purposes stated herein.

36. The first such educational seminar shall be held within one-hundred eighty days of entry of the Consent Order, and the second seminar shall be held within one year and one-hundred eighty days of entry of the Consent Order, such that both seminars shall be completed within the first two years of the Consent Order.

#### **XI. Transfer of Interest in Covered Dwelling Units**

37. If, at any time during the term of this Consent Order, any Defendant acquires a direct or indirect ownership, management, or other financial interest in any other dwelling unit, said unit shall become a "covered dwelling unit" subject to all relevant provisions of this Order. Defendant shall notify counsel for the United States within thirty (30) days of acquiring said interest. The notice shall include identification of the nature of Defendant's interest in the property; the address; the number of individual dwelling units; the number of bedrooms in each unit; the names of any existing tenants; and the race or color of each such tenant, based on the good-faith observation of a Defendant, employee or agent. Defendants shall also include in their notice to counsel for the United States a copy of the documents memorializing the transfer in interest and a copy of the lease for any existing tenant(s).

38. Transfer of Interest in a Dwelling Unit

1. If at any time while this Order remains in effect, a Defendant ("transferring Defendant") decides to transfer the entirety of said Defendant's direct or indirect ownership, management, or other financial interest in a covered dwelling unit to an

unrelated party ("purchaser" or "transferee") in an arms-length transaction,<sup>2</sup> the transferring Defendant shall take the following steps:

- i. At least thirty (30) days prior to completion of the sale or transfer, provide to each prospective purchaser or other transferee a copy of this Order along with written notice that the subject dwelling unit (or units) is (are) subject to Sections II - VII and XII - XIII of the Order;
- ii. At least thirty (30) days prior to completion of the sale or transfer, provide to the United States, by facsimile and first-class mail, written notice of its intent to sell or otherwise transfer Defendant's interest in the dwelling unit(s), along with a copy of the notice sent to each prospective transferee, containing each prospective transferee's name, address and telephone number;
- iii. Within thirty (30) days following completion of the sale or other transfer, the transferring Defendant shall provide to the United States by first-class mail a copy of the documents memorializing the transfer in interest of the dwelling unit(s);
- iv. The transferring Defendant shall require the transferee, as a condition of the sale or other transfer, to agree in writing to perform all obligations and be liable for compliance with Sections II - VII and XII - XIII of this Order for

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<sup>2</sup>For purposes of this Consent Order, "arms-length transaction" is defined as a transaction such as a contract or agreement that has been arrived at in the marketplace between independent, nonaffiliated persons, unrelated by blood or marriage, with opposing economic interests regarding that contract.

the duration of this Order, with respect to the subject dwelling unit(s);

- v. If the transferring Defendant complies with parts (i), (ii), (iii), and (iv) above and thereby transfers all of Defendant's ownership, management, or other financial interest in the dwelling unit(s) to the purchaser or other transferee, said Defendant will thereafter be relieved of Defendant's obligations under Sections II - VII and XII - XIII of this Order, but only with respect to the dwelling units in which all interest was so transferred.

Defendant shall otherwise remain liable for compliance with all sections of the Order and with respect to all other covered dwelling units.

2. If the proposed transfer of interest is not an arms-length transaction, the transferring Defendant must comply with each requirement set out in the preceding subparagraph (a), parts (i), (ii), (iii), and (iv) above. In addition, the transferring Defendant shall remain jointly and severally liable, along with the purchaser or other transferee, for any violations of Sections II - VII and XII - XIII of this Order with respect to the relevant dwelling unit(s) for the duration of the Order. In addition, the transferring Defendant shall otherwise remain liable for compliance with the Consent Order and with respect to all other covered dwelling units.

## **XII. Scope and Duration of Consent Order**

39. The provisions of this Consent Order shall apply to all Defendants, their employees, agents, successors, and all persons acting in active concert or participation with them.
40. This Consent Order is effective immediately upon its entry by the Court and shall remain in effect for four (4) years.

41. The Court shall retain jurisdiction for the duration of this Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice.
42. All parties shall be responsible for their own attorney's fees and court costs, except as provided for in Section XIII below.

### **XIII. Remedies for Non-Compliance, Time for Performance, and Modifications**

43. The United States may move the Court to extend the period in which this Order is in effect if Defendants violate one or more terms of the Order or if the interests of justice otherwise require an extension of the terms of the Order.
44. Any time limits for performance imposed by this Order may be extended by mutual written agreement of the parties. The other provisions of this Order may be modified by written agreement of the parties or by motion to the Court. If the modification is by written agreement of the parties, then such modification will be effective within thirty (30) days of filing the written agreement with the Court, and shall remain in effect for the duration of the Order or until such time as the Court indicates through written order that it has not approved the modification.
45. The parties to this Order shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event the United States contends that there has been a failure by any of the Defendants, whether willful or otherwise, to perform in a timely manner any act required by this Order or otherwise to comply with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance

of such act or deeming such act to have been performed, and an award of any damages, costs, and attorney's fees which may have been occasioned by the Defendant's or Defendants' violation or failure to perform.

46. The parties agree that in the event that the named Defendants engage in any future violation of the Fair Housing Act, such violation shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d).

**IT IS SO ORDERED:**

This 1<sup>st</sup> day of April, 2005.



KURT D. ENGELHARDT  
UNITED STATES DISTRICT JUDGE

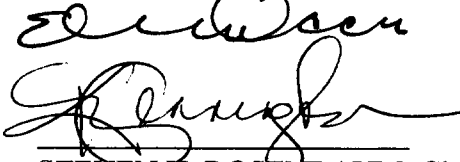


Respectfully submitted this 30<sup>th</sup> day of March, 2005.

For the United States:

JAMES LETTEN  
United States Attorney

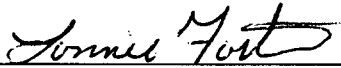
R. ALEXANDER ACOSTA  
Assistant Attorney General .



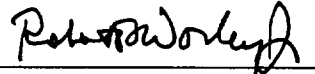
SANDRA E. GUTIERREZ  
Assistant United States Attorney  
Hale Boggs Federal Building  
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New Orleans, LA 70130  
Phone: (504) 680-3000  
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STEVEN H. ROSENBAUM, Chief  
MICHAEL S. MAURER, Deputy Chief  
KATHLEEN M. PENNINGTON, Trial Attorney  
ELIZABETH TUCCI, Trial Attorney  
United States Department of Justice  
Civil Rights Division  
Housing and Civil Enforcement Section  
950 Pennsylvania Ave., NW - G St.  
Washington, DC 20530  
Phone: (202) 353-9759  
Fax: (202) 514-1116

For Defendant B& S Properties of St. Bernard, LLC.:



\_\_\_\_\_  
Lonnie Foster in his capacity as  
OWNER of Defendant  
B&S Properties, of Saint Bernard, LLC.



\_\_\_\_\_  
Robert B. Worley, Esq.  
Jones, Walker  
201 St. Charles Ave.  
New Orleans, LA 70170  
Louisiana Bar No.  
Counsel for Defendant B&S Properties,  
of Saint Bernard, LLC.

For Defendant Fosco Enterprises, Inc.:

Lonnie Foster  
Lonnie Foster in his capacity as  
OWNER of Defendant  
Fosco Enterprises, Inc.

Robert B. Worley, Esq.  
Robert B. Worley, Esq.  
Jones, Walker  
201 St. Charles Ave.  
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Louisiana Bar No.  
Counsel for Defendant Fosco  
Enterprises, Inc.

For Defendant Berkeley Foster.:

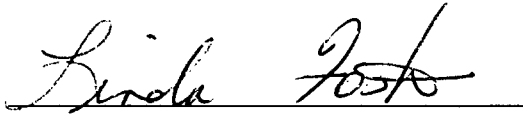
*Berkeley Foster*

Berkeley Foster

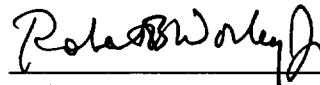
*Robert B. Worley, Esq.*

Robert B. Worley, Esq.  
Jones, Walker  
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Louisiana Bar No.  
Counsel for Berkeley Foster

For Defendant Linda Foster

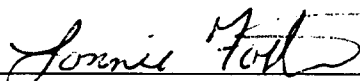
A handwritten signature in cursive script that reads "Linda Foster". The signature is written in black ink and is positioned above a horizontal line.

Linda Foster

A handwritten signature in cursive script that reads "Robert B. Worley". The signature is written in black ink and is positioned above a horizontal line.

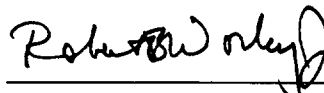
Robert B. Worley, Esq.  
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Louisiana Bar No.  
Counsel for Linda Foster

For Defendant Lonnie Foster



---

Lonnie Foster



---

Robert B. Worley, Esq.  
Jones, Walker  
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New Orleans, LA 70170  
Louisiana Bar No.  
Counsel for Lonnie Foster

For Defendant Selena Foster

Selena Foster  
Selena Foster

Robert B. Worley  
Robert B. Worley, Esq.  
Jones, Walker  
201 St. Charles Ave.  
New Orleans, LA 70170  
Louisiana Bar No.  
Counsel for Selena Foster

Exhibit A  
List of Covered Dwelling Units

<u>Address</u>	<u>No. of Rental Units</u>
3333 Golden Dr., Chalmette	4
3501 Golden Dr., Chalmette	3
3605 Jupiter Dr., Chalmette	1
3607 Jupiter Dr., Chalmette	1
3609 Jupiter Dr., Chalmette	1
3611 Jupiter Dr., Chalmette	1
3613 Jupiter Dr., Chalmette	1
3615 Jupiter Dr., Chalmette	1
3624 Jupiter Dr., Chalmette	1
3626 Jupiter Dr., Chalmette	1
3405 Rose Dr., Chalmette	1
3407 Rose Dr., Chalmette	1
3413 Rose Dr., Chalmette	1
3415 Rose Dr., Chalmette	1
3620 Juno Dr., Chalmette	1
3622 Juno Dr., Chalmette	1
3700 Juno Dr., Chalmette	1
3702 Juno Dr., Chalmette	1
304 Oak Tree Ln., Chalmette	4
308 Oak Tree Ln., Chalmette	4
312 Oak Tree Ln., Chalmette	6
316 Oak Tree Ln., Chalmette	6
2001 Gallo Dr., Chalmette	10
2602 Chalona, Chalmette	4
3217 Decomine, Chalmette	1
3012 Delambert, Chalmette	1
3812 Fenelon, Chalmette	1
3814 Fenelon, Chalmette	1
428 E. St. Avide, Chalmette	1
3200 Rosetta, Chalmette	1
4009 Jupiter Dr., Chalmette	1
4011 Jupiter Dr., Chalmette	1
9101 Gladiator.Dr., Chalmette	1
9103 Gladiator.Dr., Chalmette	1
2401 Jamie Ct., Violet	1
5601 4 <sup>th</sup> St., Violet	1
5603 4 <sup>th</sup> St., Violet	1



Exhibit B

**NONDISCRIMINATION POLICY**

It is the policy of B & S Properties of St. Bernard, L.L.C.; FOSCO Enterprises, Inc.; Berkeley Foster; Selena Foster; Lonnie Foster; and Linda Foster to comply with Title VIII of the Civil Rights Act of 1968, as amended, (commonly known as the Fair Housing Act) by ensuring that apartments are available to all persons without regard to race, color, religion, national origin, disability, familial status or sex. This policy means that, among other things, B & S Properties of St. Bernard, L.L.C., FOSCO Enterprises, Inc., and all their agents or employees with the responsibility for renting, managing or administering any dwelling units must not discriminate in any aspect of the rental of dwellings against qualified applicants or tenants because of race or color. Such agents and employees may not:

A. Refuse to rent after the making of a bona fide offer, or refuse to negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any renter because of race or color;

B. Discriminate against any person in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race or color;

B. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the rental of a dwelling that indicates a preference, limitation, or discrimination, or an intent to make such a preference, limitation or discrimination, based on race or color;

C. Represent to any person because of race or color that a dwelling is not available for rental when such dwelling is in fact available.

Any agent or employee who fails to comply with this non-discrimination policy will be subject to appropriate disciplinary action which may include termination and/or eviction. Any action taken by an agent or employee that results in the unequal service, treatment or behavior to tenants on the basis of race or color may constitute a violation of state and federal fair housing laws.

Exhibit C

List of Organizations to Receive Notice from Defendants

Greater New Orleans Fair Housing Action Center  
938 Lafayette Street, Suite 413  
New Orleans, LA 70113  
504-596-2100

St. Bernard Parish Dept. of Human Resources  
Section 8 Housing Choice Voucher Rent Subsidy Program  
8201 West Judge Perez Dr.  
Chalmette, LA 70043  
504-278-4290

Exhibit D

Employee/Agent Acknowledgment of Receiving and Reviewing Order  
and Nondiscrimination Policies and Procedures

I have received a copy of the Consent Order entered in United States v. B & S Properties of Saint Bernard, LLC, et al., Civil No. 04-1063 (Sect. N Mag. 4) (E.D. La.). I have also received a copy of my employer's [or contractor's] Nondiscrimination Policies and Procedures. The Consent Order and the Nondiscrimination Policies and Procedures were explained to me by my employer [or contractor], and all questions concerning these documents were answered. I have read and understood the Consent Order and the Nondiscrimination Policies and Procedures.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
EMPLOYEE/AGENT NAME (PRINT)

\_\_\_\_\_  
EMPLOYEE/AGENT SIGNATURE

Exhibit E

List of Identified Aggrieved Persons and Amounts to Be Paid

Dale and Sylvester Venible: \$8,000

Trinise White: \$4,000

Kimeta Riley: \$10,000

Gwenevere Joseph: \$8,000

Exhibit F

**NOTICE TO POTENTIAL VICTIMS OF HOUSING  
DISCRIMINATION BECAUSE OF RACE OR COLOR  
AT FOSTER APARTMENTS IN CHALMETTE AND VIOLET**

**304-316 Oak Tree Ln - 3233-3501 Golden Dr – 2001 Gallo Dr.**

On \_\_\_\_\_, 2005, the United States District Court for the Eastern District of Louisiana entered a Consent Order resolving a housing discrimination lawsuit brought by the United States against **B & S Properties of St. Bernard, L.L.C.; FOSCO Enterprises, Inc.; Berkeley Foster; Selena Foster; Lonnie Foster; and Linda Foster**. The lawsuit alleged that Defendants engaged in a pattern or practice of housing discrimination based on race or color in violation of the federal Fair Housing Act. Defendants denied the allegations, and the parties agreed to enter into a Consent Order rather than go to trial. **Their rental office is located at 204 W. Judge Perez Dr., Chalmette.**

In Chalmette, Defendants owned or previously owned the above-listed rental properties and additional units on Juno Dr., Jupiter Dr., Rosetta Dr., Rose St., Chalona Dr., Fenelon St., E. St. Avide St., Decomine St., and Delambert St. In Violet, Defendants own rental properties on Jamie Ct. and Fourth St.

Under the Consent Order, a Settlement Fund has been established to compensate individuals whose rights may have been violated by one or more of the Defendants listed above. You may qualify to recover from this Settlement Fund if you asked about renting, applied to rent, or lived in one of the apartments owned by Defendants, and – *because of your race or color or that of someone who resided or would have resided with you* – you were denied an opportunity to rent an apartment; were not informed of or offered all available apartments; or were otherwise discriminated against in connection with your tenancy or attempt to rent a unit.

*If you believe you have been discriminated against because of race or color in connection with any of the above-listed properties, please contact the United States Department of Justice at: 1-800-896-7743, mailbox 92.*

*You may also write to: United States Department of Justice, Civil Rights Division  
Housing and Civil Enforcement Section, 950 Pennsylvania Ave. N.W. -G St, Washington, DC  
20530. Attn: 175-32-196*

**You must call or write on or before [no more than 120 days after \_\_\_\_\_, 2005,] and your message or letter must include your name, address, and, if possible, at least TWO telephone numbers where you may be reached.**

Exhibit G

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. B & S Properties of Saint Bernard, LLC, et al., Civil No. 04-1063 (Sect. N Mag. 4) (E.D. La.), and Defendants' payment to me of \$ \_\_\_\_\_, pursuant to the Consent Order, I hereby release and forever discharge all claims related to the facts at issue in the litigation referenced above, or in any way related to that litigation, and any other claims arising from the housing discrimination alleged in that litigation up to and including the date of execution of this release, that I may have against any of the Defendants, all related entities, parents, predecessors, successors, subsidiaries and affiliates, and all of their past and present directors, officers, agents, managers, supervisors, shareholders and employees and their heirs, executors, administrators, successors or assigns.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Signature]