

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.)
)
HAROLD W. CALVERT;)
CALVERT PROPERTIES, INC.)
Defendants.)

CASE NO. 06-0655-CV-W-DW

CONSENT DECREE

I. INTRODUCTION

1. This action was filed by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Act Amendments of 1988, 42 U.S.C. §§ 3601 *et seq.* The United States alleges that Defendants engaged in a pattern or practice of discrimination on the basis of sex, and/or a denial of rights to a group of persons in the rental of dwelling units in and around Richmond, Missouri. The properties (“subject properties”) were owned by Defendant Calvert Properties, Inc. and managed by Harold W. Calvert.

2. Specifically, the United States alleges that Defendant Harold Calvert has subjected female tenants of the subject properties to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment. Such conduct is alleged to have included, but is not limited to, unwanted verbal sexual advances; unwanted physical sexual advances, such as unwanted touching of the breasts; forcible physical contact with the sexual parts of Harold Calvert’s body; inappropriate statements; and threatening to have female tenants evicted when they refused or objected to his sexual advances; all in violation of 42 U.S.C. §§ 3604 (b) and (c)

and 3617.

3. The United States alleges that Defendant Calvert Properties, Inc., is liable for the above-described discriminatory conduct of its agent and principal, Defendant Harold Calvert, in part because the conduct occurred within the scope of his employment and/or agency. The United States does not allege that the current shareholders of Calvert Properties, Kennel Calvert, Kevin Calvert, and Karen Epps, are personally liable for the conduct alleged in its Complaint.

4. On January 25, 2008, Defendant Harold Calvert died. In light of Defendant Calvert's death, and in consideration of the agreement described herein, the United States has moved to dismiss Defendant Harold Calvert from this action contemporaneous with the filing of this decree.

5. The remaining parties have agreed that in order to avoid protracted and costly litigation over damages, this controversy should be resolved without further litigation. Therefore, the parties consent to the entry of this Decree without a trial or adjudication of any of the facts alleged by the United States. This agreement constitutes full resolution of the United States' claims on behalf of identified and unidentified aggrieved persons that lived at or applied to live at properties identified in Appendix A at any time prior to the date of this Decree.

6. Defendant avers that Appendix A is a complete list of all the real properties that it now owns or did own at times relevant to the allegations in the United States' Complaint, in whole or in part, jointly or singly. It also avers that all but two of those properties are residential rental properties ("residential rental properties") and that the remaining two consist of an office building (306 Hill St.) and a vacant lot (Hill St.). These two properties are not currently used as residential rental properties, and they will not be used as residential rental properties in the

future. Defendant has represented that it intends to sell all residential rental properties listed in Appendix A.

It is hereby ORDERED, ADJUDGED AND AGREED that:

II. SCOPE AND TERM OF DECREE

7. The provisions of the Decree shall apply to Defendant Calvert Properties Inc., its employees, agents, assigns, successors-in-interest, and all persons in active concert or participation with any of them.

8. This Decree is effective immediately upon its entry by the Court. For purposes of this Decree, the phrases “date of this Decree” and “effective date” shall refer to the date on which the Court enters the Decree.

III. INJUNCTION

9. Defendant, its agents, employees, successors, and all persons currently in active concert or participation with it, are hereby enjoined from:

- (a) Discriminating against any person in the terms, conditions or privileges of renting a dwelling unit, or in the provision of services or facilities in connection therewith, because of sex;
- (b) Making, printing, publishing, or causing to be made, printed, or published any notice, statement or advertisement with respect to the rental of a dwelling unit that states any preference, limitation or discrimination based on sex; or
- (c) Coercing, intimidating, threatening or interfering with any person in the exercise or enjoyment of, or on account of her having exercised or enjoyed, or on account of her having aided and encouraged any other person in the exercise or enjoyment

of, any right granted by 42 U.S.C. §§ 3603-3606.

IV. COMPENSATION OF AGGRIEVED PERSONS

A. Identified aggrieved persons

10. Defendant shall pay a total of ONE HUNDRED SIXTY FIVE THOUSAND DOLLARS (\$165,000.00) in monetary damages to persons whom the United States has identified as aggrieved persons, including Lanessia Rowland, William Rowland, Brittanie Rowland, Pepper Hatcher, Verda Allen, Sherrell Lewis, Selina Lockhart, and Christie Scott (hereinafter “identified aggrieved persons”) as listed in Appendix B.

11. Payments under this Paragraph shall be made payable to the United States and shall be made pursuant to the payment schedule set out in subparagraphs a & b below.

a. Within ten (10) days of the date of this Decree, Defendant shall initiate efforts to sell one or more of the properties listed in Appendix A. At such time that the sale of one or more of these properties generates at least TWENTY FIVE THOUSAND DOLLARS (\$25,000), but in no event later than six (6) months from the date of this Decree, Defendant shall pay TWENTY FIVE THOUSAND DOLLARS (\$25,000) for the purpose of compensating identified aggrieved persons (the “First Installment Payment”).

b. In addition to the First Installment Payment, within six (6) months from the date of this Consent Decree, Defendant shall pay NINETY FIVE THOUSAND (\$95,000) for the purpose of compensating identified aggrieved persons (the “Second Installment Payment”).

c. Within twelve (12) months from the date of this Consent Decree, Defendant shall

pay FORTY FIVE THOUSAND DOLLARS (\$45,000), and accrued interest, for the purpose of compensating identified aggrieved persons (the “Third Installment Payment”).

12. Defendant shall pay interest, which shall accrue per annum at the rate of 1.63%, on any amount under the Decree under paragraphs 10 and 11 that is outstanding after twelve (12) months from the date of this Consent Decree, including that amount due under paragraph 11(c), if any. Interest shall begin to accrue twelve (12) months after the date of this Consent Decree. The accrued interest shall be paid to the United States and shall be due on the date the amount owed is paid. The payment of the accrued interest shall be delivered to counsel for the United States, via overnight mail, in the form of a cashier’s check payable to the “United States Treasury.”¹

13. The United States shall distribute payments received under paragraphs 10 and 11 in the amounts and in the sequence listed in Appendix B. No amount shall be paid to any of the aggrieved persons identified above before that person has executed the written release of all claims, legal or equitable, that he or she might have against Defendant relating to the claims asserted in this lawsuit, set out in Appendix C. Counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to counsel for Defendant. If an aggrieved person declines to execute a written release, then the check payable to the declining aggrieved person shall be returned to the Defendant.

B. Unidentified aggrieved persons

¹ All payments due under this Decree shall be sent by overnight mail addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-43-153, United States Department of Justice, 1800 G Street, NW, Washington, D.C. 20006.

14. Within eighteen (18) months after the date of this Decree, Defendant shall deposit the sum of SIXTY THOUSAND DOLLARS (\$60,000.00), into an interest-bearing trust account (hereinafter “the Settlement Fund”), to be established by Defendant’s counsel, for the purpose of paying monetary damages to any aggrieved persons not already identified by the United States in Appendix B and whom the Court determines may have been harmed by Defendant’s discriminatory rental practices (hereinafter “unidentified aggrieved persons”). Any interest accruing to the Settlement Fund shall become a part of the fund and be utilized as set forth herein.

15. Defendant shall pay interest, which shall accrue per annum at the rate of 1.63%, on any amount under paragraph 14 that is outstanding after twelve (12) months from the date of this Consent Decree. Interest shall begin to accrue twelve (12) months after the date of this Consent Decree. The accrued interest shall be paid to the United States and shall be due on the date the amount owed under paragraph 14 is paid in full. The payment of the accrued interest shall be delivered to counsel for the United States, via overnight mail, in the form of a cashier’s check payable to the “United States Treasury.”

16. Defendant shall arrange and publish a Notice to Potential Victims of Housing Discrimination (“Notice”) as follows:

- a. The Notice shall be published on at least four (4) occasions in the ‘A’ Section (or News Section) of the Richmond Daily News (newspaper) in a space measuring no less than three column inches by six column inches.
- b. The Notice shall also be published on at least four (4) occasions in the ‘A’ Section (or News Section) of the Excelsior Springs Standard (newspaper) in a

space measuring no less than three column inches by six column inches.

- c. The Notice shall also be published on at least one (1) occasion in the “Public Notices” Section of the Sunday edition of the Kansas City Star in a space measuring no less than three column inches by five and one half column inches.
- d. 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 Decree. Each Notice shall also contain a statement that the United States seeks information from any persons who claim to have been subjected to sexual harassment by Defendant 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 five (5) months from the date of this Decree. The Text of this Notice is set forth in Appendix D.
- d. Defendant 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 date of this Decree, Defendant shall also send a copy of the Notice to each of the organizations identified in Appendix E.

17. The notices required in paragraph 16 shall be published within four (4) months after the date of this Decree.

18. Defendant shall produce any rental/tenancy records, or any other records in the possession or control of Defendant, its agents or employees, upon notice to Defendant’s counsel, which the United States believes to be useful in identifying persons who may be entitled to relief

under paragraph 14 of this Decree. Upon reasonable notice, Defendant shall provide such rental/tenancy records or shall permit representatives of the United States to receive copies of such rental/tenancy records through Defendant's counsel.

19. Nothing in this Decree shall prevent the United States from making any additional efforts that it deems appropriate to locate and provide notice to potential aggrieved persons.

20. Unidentified aggrieved persons, as described in paragraph 14, shall have seven (7) months from the date of this Decree to contact the United States in response to this Notice.

21. The United States shall investigate the claims of the unidentified aggrieved persons and, within nine (9) months from the date of this Decree, 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 Defendant 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 Defendant shall have thirty (30) days from the date it receives this information to review the declaration and provide any documents or information that it believes may refute the claim to the United States.

22. After receiving Defendant's 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 Defendant.

23. Within ten (10) days of the Court's order providing for the distribution of funds to aggrieved persons, but in no event earlier than eighteen (18) months from the date of this Decree, Defendant shall deliver to counsel for the United States checks payable to the unidentified

aggrieved persons in the amounts approved by the Court. In no event shall the aggregate of all checks to the unidentified aggrieved persons exceed the sum of SIXTY THOUSAND DOLLARS (\$60,000.00), plus accrued interest if any.

24. When counsel for the United States has received a check from Defendant payable to an aggrieved person and a signed release in the form of Appendix C 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 Defendant. No aggrieved person shall be paid until he/she has signed and delivered to counsel for the United States the release at Appendix C.

25. After the satisfaction of paragraphs 14-24, and expiration of the corresponding time periods, any money remaining in the Settlement Fund described in paragraph 14 shall be released to Defendant.

V. CIVIL PENALTY

26. Within twelve (12) months after the date of this Decree, Defendant shall issue a certified check or money order in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00), payable to the United States Treasury as a civil penalty, pursuant to 42 U.S.C. § 3614(d)(1)(C), to vindicate the public interest. Defendant shall deliver this payment to counsel for the United States, via overnight mail, within twelve (12) months of the date of this Decree to the address listed in footnote 2.

27. Defendant shall pay interest, which shall accrue per annum at the rate of 1.63%, on any amount under paragraph 26 that is outstanding after twelve (12) months from the date of this Consent Decree. Interest shall begin to accrue twelve (12) months after the date of this Consent Decree. The accrued interest shall be paid to the United States and shall be due on the date the

amount owed under paragraph 26 is paid in full. The payment of the accrued interest shall be delivered to counsel for the United States, via overnight mail, in the form of a cashier's check payable to the "United States Treasury."

28. In the event that Defendant, its agents or employees engage in any future violation(s) of the Fair Housing Act, such violation(s) shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d).

VI. JUDGMENT PENALTY AND LIQUIDATED DAMAGES

29. If Defendant fails to make any installment payment within the time or in the amounts set forth in paragraphs 11 and 14, fail to pay the interest within the time or in the amount set forth in paragraph 12 and 15, or fail to pay the civil penalty within the time or in the amount set forth in paragraph 26, the following penalties shall apply:

- a. Upon failure to pay the First Installment Payment specified in paragraph 11(a), TEN THOUSAND DOLLARS (\$10,000) shall be payable immediately to the United States without further notice or hearing.
- b. Upon failure to pay the Second Installment Payment specified in paragraph 11(b), TEN THOUSAND DOLLARS (\$10,000) shall be payable immediately to the United States without further notice or hearing.
- c. Upon failure to pay either the Third Installment Payment specified in paragraph 11(c) or the civil penalty specified in paragraph 26, FORTY THOUSAND DOLLARS (\$40,000) shall be payable immediately to the United States along with the outstanding balance owed under the terms of paragraphs 11-12, 14-15, and 26-27 of this Order, and judgment shall be entered immediately, without

further notice or hearing, against Defendant.

- d. Upon failure to satisfy the requirements of paragraph 14 concerning the fund for unidentified aggrieved persons, FORTY THOUSAND DOLLARS (\$40,000) shall be payable immediately to the United States along with the outstanding balance owed under the terms of paragraphs 11-12, 14-15, and 26-27 of this Order, and judgment shall be entered immediately, without further notice or hearing, against Defendant.

30. If judgment is entered pursuant to paragraph 29, the judgment will accrue post-judgment interest at the rate of 1.63% and in the manner set forth in 28 U.S.C. § 1961, and the parties agree that the United States is entitled to enforce collection of that judgment by all legal means available, including, but not limited to, filing liens against Defendant's non-exempt real and personal property, garnishing Defendant's wages and bank accounts, and levying against Defendant's non-exempt real and personal property.

VII. MISCELLANEOUS PROVISIONS

31. It is ordered that the assets of Defendant corporation, including but not limited to the properties listed in Appendix A, shall be sold to satisfy the obligations of Sections IV through VI of this Decree. Consistent with the requirements of paragraph 11, Defendant shall forthwith begin to sell the properties listed in Appendix A. Defendant shall not sell, transfer, or otherwise obligate any interest in said properties for purposes inconsistent with satisfying the terms of this Decree until such time as sufficient funds are available to satisfy all monetary payments due. Defendant shall no longer be obligated to sell these properties after all obligations of Sections IV through VI have been satisfied.

32. All parties shall be responsible for their own attorney's fees and court costs, except as provided in paragraph 35, below.

33. Any time limits for performance imposed by this Decree may be extended by mutual, written agreement of the parties.

34. Defendant shall provide any information reasonably related to compliance with this Decree that is requested by the United States, including but not limited to any information related to the initiation of the sale of properties and/or the sale of properties listed in Appendix A as required under paragraph 11.

VIII. DISMISSAL

35. The parties to this Decree shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Decree 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 Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Decree or in the event of any other act violating any provision hereof, 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 or non-performance of such acts, or deeming such acts to have been performed, and an award of any damages, costs, and attorneys' fees which may have been occasioned by the Defendant's non-actions or actions or the Defendant's violation or failure to perform.

36. The Court shall retain jurisdiction for the duration of this Consent Decree to enforce the terms of the Decree, after which time the case shall be dismissed with prejudice. Plaintiff may move the Court to extend the duration of the Decree in the interests of justice.

37. This Decree shall be in effect for a period of five (5) years from the effective date.

The undersigned apply for and consent to the entry of this Decree:

FOR PLAINTIFF UNITED STATES:

JOHN F. WOOD
United States Attorney
CHARLES M. THOMAS, MO # 28522
Assistant United States Attorney
Charles Evans Whittaker Courthouse
400 East Ninth Street, Room 5510
Kansas City, Missouri 64106
Telephone: (816) 426-3130

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

By:

/s/ Joseph Gaeta
STEVEN H. ROSENBAUM, Chief
KEISHA DAWN BELL, Deputy Chief
JOSEPH GAETA, Attorney
R.I. Bar # 6477
U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Avenue, N.W.
Northwestern Building, 7th Floor
Washington, DC 20530
Telephone: (202) 353-9062
Facsimile: (202) 514-1116
Email: Joe.Gaeta@usdoj.gov
Attorneys for Plaintiff United States

FOR DEFENDANT CALVERT PROPERTIES, INC.

/s/ Kevin A. Graham
KEVIN A. GRAHAM, Esq.
Attorney for Defendant
Flook & Graham
11 E. Kansas
Liberty, Missouri 64068

/s/ Kennel Calvert
KENNEL CALVERT
CALVERT PROPERTIES, INC.

APPENDIX A

List of all residential rental properties currently owned by Calvert Properties, Inc.

- 1) 510 South Shotwell Street, Richmond, Missouri;
- 2) 609 Hill Street, Richmond, Missouri;
- 3) 509 Hill Street, Richmond, Missouri;
- 4) 707 Jabez Street, Richmond, Missouri;
- 5) 705 Jabez Street, Richmond, Missouri;
- 6) 703 Jabez Street, Richmond, Missouri;
- 7) 908 Jabez Street, Richmond, Missouri;
- 8) 604 West Lexington Street, Richmond, Missouri;
- 9) 700 South Second, Richmond, Missouri;
- 10) 522 West Lexington Street, Richmond, Missouri;
- 11) 404 Church Street, Richmond, Missouri;
- 12) 400 Wellington Street, Richmond, Missouri;
- 13) 300 West Royle Street, Richmond, Missouri;
- 14) 402 West Royle Street, Richmond, Missouri;
- 15) 311 West Royle Street, Richmond, Missouri;

List of all non-residential real properties currently owned by Calvert Properties, Inc.

- 1) 306 Hill St., Richmond, Mo. (office building)
- 2) Hill Street, Richmond, Missouri (no street number)

APPENDIX B

Identified Aggrieved Persons and Amounts to be Paid

	<u>Total</u>	<u>1st Inst.</u>	<u>2nd Inst.</u>	<u>3rd Inst.</u>
Lanessia Rowland	\$33,674	\$5,103	\$19,387	\$9,184
William Rowland	\$10,102	\$1,530	\$5,816	\$2,756
Brittanie Rowland	\$6,734	\$1,017	\$3,881	\$1,836
Pepper Hatcher	\$26,939	\$4,082	\$15,510	\$7,347
Verda Allen	\$20,204	\$3,062	\$11,632	\$5,510
Sherrell Lewis	\$26,939	\$4,082	\$15,510	\$7,347
Selina Lockhart	\$20,204	\$3,062	\$11,632	\$5,510
Christie Scott	\$20,204	\$3,062	\$11,632	\$5,510

APPENDIX C

FULL AND FINAL RELEASE OF CLAIMS

In consideration for the parties' agreement to the terms of the Consent Decree entered in *United States v. Harold Calvert, et al.*, Civil No. 06-0655 (W.D. Mo.), and the Defendant's payment to me of \$_____ pursuant to the terms of the Decree, I, _____, hereby agree, effective upon receipt of full payment, to remise, release and forever discharge any and all claims of any kind, nature or description whatsoever, related to the facts at issue in the litigation referenced above, or in any way related to that litigation, up to and including the date of execution of this release, that I may have against Defendant Calvert Properties, Inc., and its agents, employees, officers, heirs, executors, spouses, administrators, successors, assigns or owners.

I acknowledge and understand that, by signing this Release and accepting this payment, I am waiving any right to pursue my own legal action based on the discrimination alleged by the United States in this case.

I also acknowledge that I have been informed that I may review the terms of this Release with an attorney of my choosing, and to the extent that I have not obtained legal advice, I voluntarily and knowingly waive my right to do so.

The Release constitutes the entire agreement between Defendant and me, without exception or exclusion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 2008.

Name

APPENDIX D

NOTICE TO POTENTIAL VICTIMS OF SEXUAL HARASSMENT AT APARTMENTS AND HOMES IN RICHMOND, MISSOURI, OWNED AND/OR MANAGED BY HAROLD W. CALVERT AND/OR CALVERT PROPERTIES, INC.

On _____, 2008, the United States District Court for the Western District of Missouri entered a Consent Decree resolving a sexual harassment lawsuit brought by the United States against Harold W. Calvert and Calvert Properties, Inc. The lawsuit alleged that Defendants engaged in a pattern or practice of sexual harassment at various apartments and homes in Richmond, Missouri, in violation of the federal Fair Housing Act. In particular, the lawsuit alleged that Defendant Harold W. Calvert engaged in sexual harassment of female tenants. Defendants denied the allegations, and the parties agreed to enter into a Consent Decree rather than go to trial.

Under the Consent Decree, a Settlement Fund has been established to compensate persons 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 or houses owned and/or managed by Harold W. Calvert and/or Calvert Properties, Inc., and, – because of your gender – you were denied an opportunity to rent an apartment or houses or were otherwise sexually harassed during your tenancy or attempt to rent a unit or house.

If you believe you have been discriminated against because of sex in connection with any of the above-listed properties, please contact the United States Department of Justice at: 1-800-XXXXXXX, mailbox xx.

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: 175-1-226

You must call or write on or before [no more than five months after _____, 2008,] and your message or letter must include your name, address, and, if possible, at least TWO telephone numbers where you may be reached.

APPENDIX E

LIST OF ORGANIZATIONS TO RECEIVE NOTICE

Richmond Housing Authority
302 N. Camden Avenue
Richmond, MO 64085

Excelsior Springs Housing Authority
320 W. Excelsior Street
Excelsior Springs, MO 64024

Liberty Housing Authority
17 E. Kansas St. - 2nd Fl
Liberty, MO 64068

U.S. Department of Housing and Urban Development
Kansas City Regional Office
400 State Avenue
Room 200
Kansas City, KS 66101-2406

American Civil Liberties Union Kansas & Western Missouri
3601 Main Street
Kansas City, MO 64111

Greater Kansas City Housing Information Center
6285 Paseo Blvd.
Kansas City, MO 64110

Legal Aid of Western Missouri
920 Southwest Blvd.
Kansas City , MO 64108

Kansas City Fair Housing Center
3033 Prospect Ave.
Kansas City , MO 64127