

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHELLEY MILTON AND EDWARD MILTON,

Defendants.

Civil No. 09-00123-E-BLW

**CONSENT ORDER**

The United States initiated Case No. CV 09-00123-E-BLW against the defendants on March 16, 2009, on behalf of Frank Tyler Atkinson, and his two minor children, pursuant to Section 812(o) of the Fair Housing Act, as amended, 42 U.S.C. § 3612(o). The complaint alleges the Miltons discriminated against the Atkinsons on the basis of familial status in connection with the rental an apartment at 179 College Avenue, Idaho Falls, Idaho, in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a), (b), and (c). The Miltons deny these allegations.

The parties have agreed to the entry of this Consent Order to resolve all claims of the United States and the Atkinsons against the defendants and to avoid further expenses and the uncertainties of litigation. By entering into this Consent Order, the defendants do not admit to any violation of the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*

**I. GENERAL INJUNCTION**

The defendants, their officers, agents, employees, and all persons in active concert or participation with them are enjoined, with respect to the rental of any dwellings as defined by 42 U.S.C. § 3602(b), from:

- A. Refusing to rent, or to negotiate for the rental of, or otherwise making unavailable or denying, a dwelling to any person because of familial status, in violation of 42 U.S.C. § 3604(a);
- B. Discriminating 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 familial

status, in violation of 42 U.S.C. § 3604(b); and making, or causing to be made, statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c).

## **II. AFFIRMATIVE RELIEF**

A. Defendants shall within 30 days of the entry of this Order post and prominently display in the rental office and in any other office where there is rental activity and/or personal contact with applicants for the rental of dwellings from the defendants, a poster no smaller than 11 inches by 14 inches that indicates that all dwellings are available for rent on a nondiscriminatory basis. The poster(s) shall comply with the requirements set out in 24 C.F.R. Part 110.

B. Defendants shall within 30 days of the entry of this Order include the words "Equal Housing Opportunity" or the fair housing logo in all advertising conducted by the defendants in newspapers, telephone directories, radio or other media, and on all signs, pamphlets, brochures, and other promotional literature. The words or logo shall be prominently placed and easily legible.

## **III. MANDATORY EDUCATION AND TRAINING**

The United States and the Atkinsons acknowledge that prior to the filing of the complaint in this matter, the Miltons underwent training on the provisions of the Fair Housing Act pertaining to discrimination on the basis of familial status.

## **IV. COMPENSATION OF AGGRIEVED PERSONS**

The defendants shall pay to Frank Tyler Atkinson, an aggrieved person within the meaning of the Fair Housing Act, the sum of six hundred dollars (\$600.00), provided that no amount shall be paid pursuant to this paragraph before Frank Tyler Atkinson, on his own behalf and on behalf of his minor children, has executed a written release (substantially in the form of *Attachment A*) of all claims, legal or equitable that he might have against the defendants relating to the claims asserted in this lawsuit. The defendants shall send a check made payable to Frank

Tyler Atkinson for this amount to Assistant United States Attorney Robert C. Grisham within fifteen (15) days after the date of entry of this Order.

#### **V. RECORD KEEPING AND REPORTING**

A. During the term of this Order, the defendants shall retain all rental records maintained in the normal course of their business – including, but not limited to, inquiry logs, applications and tenant files – created from the date of the entry of this Consent Order. Upon request and reasonable notice, the defendants shall produce or permit representatives of the United States to review any such records in the possession or control of the defendants, or their agents, employees, or representatives.

B. During the term of this Order, the defendants shall give counsel for the United States written notice within 15 days of the receipt of any written complaint against the defendants regarding discrimination on the basis of familial status and a description of the resolution of any such complaint within 15 days of resolution. The defendants shall also promptly provide the United States all information it may request concerning any such complaint and its actual or attempted resolution.

#### **VI. COURT JURISDICTION**

The parties have consented to the entry of this Order as indicated by the signatures below. To this end, the parties stipulate and the Court finds that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o). This Consent Order is effective immediately upon its entry by the Court.

B. The Court shall retain jurisdiction over this action and over the defendants for two years from the date of entry of this Consent Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice.

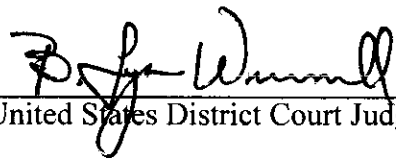
C. The parties to this Consent Order shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event of a failure by the defendants to perform in a timely manner any act required by this Consent Order or otherwise to act in

violation of 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.

D. Each party to this Consent Order shall bear its own costs and attorney's fees associated with this action.

E. This Consent Order may be signed by the parties in counterparts.

So ORDERED this 15<sup>th</sup> day of ~~March~~ <sup>April</sup>, 2009.

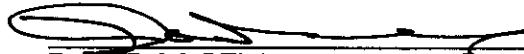
  
United States District Court Judge

The undersigned hereby apply for and consent to the entry of this Order.

For the Defendants

Shelley Milton and Edward Milton

COSHO HUMPHREY, LLP



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COSHO HUMPHREY, LLP  
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For Plaintiff

United States of America

THOMAS E. MOSS  
United States Attorney

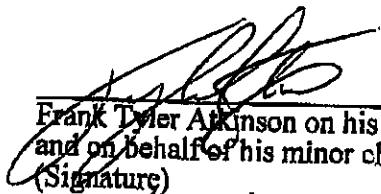


ROBERT C. GRISHAM  
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U.S. Attorney's Office  
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ATTACHMENT A

Release


In consideration of the Consent Order entered in *United States v. Shelley Milton and Edward Milton*, Case No. CV09-00123-E-BLW, and of the payment of the sum of six hundred dollars (\$600.00), pursuant thereto, I Frank Tyler Atkinson, on my own behalf and on behalf of my minor children, hereby release the defendants named in this action from any and all liability for any claims, legal or equitable, I may have against them arising out of the issues alleged in this action as of the date of the entry of the Consent Order. I fully acknowledge and agree that this release of the defendants shall be binding on my heirs, representatives, executors, successors, administrators, and assigns. I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

  
\_\_\_\_\_  
Frank Tyler Atkinson on his own behalf  
and on behalf of his minor children  
(Signature)

3/06/09  
\_\_\_\_\_  
(Date)

Subscribed and sworn to before me this 6TH day of MARCH, 2009.



  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at NAMPA  
My Commission Expires: 11/01/2012