

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

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 05:11-cv-00009
)	
WHEELING HOUSING AUTHORITY)	
)	
Defendant.)	
_____)	

CONSENT ORDER

This Consent Order resolves the allegations in the Complaint filed by the United States that Defendant Wheeling Housing Authority (hereinafter the "Authority") violated the Fair Housing Act (hereinafter "FHA" or "the Act"), 42 U.S.C. §§ 3601-3619. The above-captioned civil action was brought pursuant to 42 U.S.C. § 3612(o) on behalf of Kathy Green and her son, Anias Lawrence and her minor child, N.L.

I. BACKGROUND

1. The Authority is a state-aided public housing authority located in Wheeling, West Virginia. In addition to receiving state financial aid, the Authority receives federal funding from the United States Department of Housing and Urban Development (hereinafter "HUD"). At all times relevant to the allegation in the Complaint, the Authority owned and operated the Hil-Dar Apartments, a state-funded public housing site located in Wheeling.

2. Kathy Green, who is black, is a former resident of the Hil-Dar Apartments, from 2006 through December 2010. At the time that Ms. Green resided at the Hil-Dar Apartments,

she lived with her son Anias Lawrence, who was a minor at the time, and her minor daughter, N.L., who are both black (collectively, the "Green family").

3. Beginning in November 2007, the Green family became the target of racial harassment by a neighboring family, who were also residents of the Hil-Dar Apartments, because the Green family is black. The harassment included verbal abuse, racial slurs, threats, assaults or attempted assaults of members of the Green family.

4. The racial harassment caused Ms. Green to fear for the safety of her family and for Anias Lawrence and N.L. to be fearful for their safety at the Hil-Dar Apartments.

5. In the Complaint the United States alleges that the Authority knew or should have known of the racial harassment because Ms. Green complained repeatedly to the Authority about the harassment, both orally and in writing, and that there is a detailed record of her complaints to the Authority. The Complaint further alleges that the Authority knew or should have known of this racial harassment because of a police visit to the Hil-Dar Apartments to address the aforementioned harassment.

6. The Complaint further alleges that the Authority was provided with the power under the lease with the tenants of Hil-Dar Apartments to terminate the tenancy of any tenant who threatened or harassed another tenant because of race and that the Authority failed to terminate the tenancy of the harassing tenant in a prompt and consistent manner and allowed the harassing tenant to continue to reside at the Hil-Dar Apartments to this day.

7. On October 20, 2008, Ms. Green filed a timely complaint with HUD, on behalf of herself and her two children, Anias Lawrence and N.L., pursuant to the FHA, alleging that the Authority discriminated against her family on the basis of race.

8. After an investigation, on September 8, 2010, the Secretary of HUD issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the Authority with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 of the Act. After the Authority timely elected to proceed in federal court, HUD referred the matter to the Department of Justice for filing pursuant to 42 U.S.C. § 3612(o). The United States filed this action on January 14, 2011.

9. The Authority has filed an Answer and Affirmative Defenses in which the Authority asserts that it took all reasonable, proper, and legally required steps in addressing Ms. Green's complaints and denies that it has engaged in discrimination on the basis of race or any other conduct in violation of or inconsistent with the Act.

10. The United States and the Authority agree that the Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345, 42 U.S.C. § 3610(o) and 42 U.S.C. § 3614(a).

11. The parties further agree that, to avoid costly and protracted litigation, the claims against the Authority should be resolved without further litigation. Therefore, as indicated by the signatures appearing below, the United States and the Authority agree to the entry of this Consent Order. This Consent Order constitutes full resolution of the claims set forth in the United States' Complaint that the Authority discriminated against Kathy Green and her two children, without an

admission of liability or wrongdoing on the part of the Authority.

It is hereby ORDERED, ADJUDGED and DECREED:

II. INJUNCTIVE RELIEF

12. The Authority, for itself and its officers, employees, agents, representatives, successors and assigns, and all other persons in active concert or participation with it, is enjoined from:

- a. Discriminating on the basis of race as prohibited by the FHA, 42 U.S.C. §§ 3601-3619;
- b. Discriminating against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection with the rental of such a dwelling on the basis of race, in violation of 42 U.S.C. § 3604(b); and
- c. Coercing, intimidating, threatening or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided and encouraged any other person in the exercise or enjoyment of, any right granted by 42 U.S.C. §§ 3603 – 3606.

III. NONDISCRIMINATION, COMPLAINT AND SECURITY POLICIES

13. Within fifteen (15) days of the date of entry of this Consent Order and throughout its term, the Authority shall post and prominently display within the Authority's leasing offices, and within the offices of all Authority management officials, a sign no smaller than ten (10) inches by fourteen (14) inches indicating that all dwellings are available for rental on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this

requirement.

14. Throughout the term of this Consent Order, the Authority shall ensure that any new advertising for the Authority in newspapers, in telephone directories, on radio, on television, on the internet, or in other media, and any signs, pamphlets, brochures, or other promotional literature include a fair housing logo, the phrase "Equal Housing Opportunity Provider," and/or the following sentences:

We are an Equal Opportunity Housing Provider. We do not discriminate on the basis of race, color, national origin, religion, sex, familial status or disability.

15. Within fifteen (15) days of the date of entry of this Consent Order, the Authority shall provide via first class mail, postage pre-paid, to the head of the household for each of the Authority's occupied public housing units a written notice attached hereto as Appendix B, describing the Authority's policy of nondiscrimination (hereinafter "Nondiscrimination Policy").

16. In addition, throughout the term of this Consent Order, the Authority shall include a copy of the Nondiscrimination Policy in all rental application packets for the Authority.

17. The Authority shall establish and adopt a written complaint policy for the Authority (hereinafter "Complaint Policy"). The Complaint Policy shall inform applicants for, and tenants of, Authority properties how and where to file a complaint with the Authority about the practices of the Authority, its employees and its agents that relate to the Nondiscrimination Policy and/or to other rights afforded by the Act. The Complaint Policy shall also inform applicants for, and tenants of, Authority properties of their right to file a fair housing complaint with HUD. Within thirty (30) days of the date of entry of this Consent Order, the Authority shall

provide a draft copy of the Complaint Policy to counsel for the United States for approval. The United States shall respond to the Authority's proposed Complaint Policy within thirty (30) days of its receipt. If the United States objects to any part of the Authority's proposal, the parties shall have thirty (30) days to resolve their disagreement. If they are unable to do so, the parties shall submit the dispute to the Court for resolution. The Authority shall implement the Complaint Policy within ten (10) days of approval by the United States or determination by the Court.

18. Within fifteen (15) days of the date of implementation of the Complaint Policy, the Authority shall provide a copy of the Complaint Policy to each current resident of the Wheeling Housing Authority. For the duration of this Consent Order, the Authority shall provide a copy of the Complaint Policy to each new Wheeling Housing Authority resident within ten (10) days of the commencement of their residency.

19. The Authority shall establish and adopt a policy to contact that Wheeling Police Department on a regular basis, on the first of every month, to collect any reports of police visits to the Hil-Dar Apartment Complex. In addition, the Authority shall establish and adopt a policy to review video footage from the dates of the reported police visits from the surveillance cameras placed throughout the Hil-Dar Apartment Complex.

IV. TRAINING

20. Within fifteen (15) days of the date of entry of this Consent Order, the Authority shall provide a copy of the Consent Order and the Nondiscrimination Policy to all Authority employees and agents whose duties, in whole or in part, involve the showing, renting, managing or marketing of the Authority's public housing units ("covered Authority employees"). For the

Authority's Complaint Policy, within fifteen (15) days of the implementation of the policy, the Authority shall provide a copy of those policies to all covered Authority employees. The Authority shall secure signed statements conforming to Appendices C and D from each covered Authority employee acknowledging that he/she has received, read and understands the Consent Order, the Nondiscrimination Policy, and the Complaint Policy, and has had his/her questions about these documents answered. Copies of those signed statements shall be provided to the United States in accordance with the provisions of Paragraph 23.

21. Within ninety (90) days of the date of entry of this Consent Order, the Authority shall provide training focused on the prohibition of race discrimination under the FHA to all covered Authority employees. The training shall be conducted by a qualified third party, approved by the United States and unconnected to the Authority or its employees, agents, or counsel. Any expenses associated with this training shall be borne by the Authority. Those who attend the training shall be required to sign a certification of completion conforming to Appendix D. Copies of those signed certifications shall be provided to the United States in accordance with the provisions of Paragraph 23.

22. During the term of this Consent Order, each new covered Authority employee shall be given a copy of this Consent Order, the Nondiscrimination Policy, and the Complaint Policy. Each such new covered Authority employee shall sign statements conforming to Appendices C and D. During the term of this Consent Order, the Authority will provide training focused on the prohibition of race discrimination under the FHA to new covered Authority employees no less frequently than every six (6) months, in which case any and all new covered

Authority employees who have been hired since the last training session shall be required to attend. The training shall be conducted by a qualified third party, approved by the United States and unconnected to the Authority or its employees, agents, or counsel. Any expenses associated with this training shall be borne by the Authority. Those who attend the training shall be required to sign a certification of completion conforming to Appendix D. Copies of those signed certifications shall be provided to the United States in accordance with the provisions of Paragraph 23.

V. REPORTING AND RECORD KEEPING REQUIREMENTS

23. During the term of this Consent Order, the Authority shall submit a total of three (3) compliance reports to counsel for the United States. These reports shall be submitted as follows: (a) the first report will be submitted within one hundred twenty (120) days of the date of entry of this Consent Order; (b) the second report will be submitted within eighteen (18) months after submission of the first report; and (c) the final report will be submitted sixty (60) days prior to the expiration of this Consent Order. The compliance reports shall include: (a) the signed statements and certifications of each covered Authority employee referred to in paragraphs 21 and 22 obtained since the entry of the Consent Order or submission of the prior compliance report; (b) copies of any advertising for the Authority in newspapers, in telephone directories, on radio, on television, on the internet, or in other media, and copies of any signs, pamphlets, brochures, or other promotional literature concerning the Authority published since the submission of the prior report; and (c) photographs showing the Nondiscrimination Policy described in Paragraph 15 posted and prominently displayed in the Authority's leasing offices

and within the offices of all Authority management officials.

24. During the term of this Consent Order, the Authority shall notify counsel for the United States in writing within thirty (30) days of receipt of any written or oral complaint against the Authority and/or any of the Authority's agents or employees regarding race discrimination. If the complaint is written, the Authority 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. The Authority shall also promptly provide the United States all information it may request concerning any such complaint and shall inform the United States in writing within fifteen (15) days of the terms of any resolution of such a complaint.

25. For the duration of this Consent Order, the Authority shall preserve all records related to this Consent Order. Such documents include, but are not limited to, advertisements, applications, leases, resident assessment materials, tenant files, and Authority policies and procedures. Upon reasonable notice to the Authority, representatives for the United States shall be permitted to inspect and copy any records related to this Consent Order and/or inspect any public housing unit within the Authority at any and all reasonable times so as to determine compliance with the Consent Order, provided, however, that the United States shall endeavor to minimize any inconvenience to the Authority.

26. The United States may take steps to monitor the Authority compliance with the Consent Order including, but not limited to, conducting fair housing tests at the Authority to determine if the Authority is violating any part of this Order.

VI. DAMAGES FOR AGGRIEVED PERSONS OF AGE

27. Within fifteen (15) days of the date of entry of this Order, the Authority shall pay Ms. Green ten thousand dollars (\$10,000) in monetary damages and Anias Lawrence four thousand and two hundred fifty dollars (\$4,250) in monetary damages. The Authority shall pay said monetary damages by sending to the United States a check in the amount of ten thousand dollars (\$10,000) payable to Kathy Green and a check in the amount of four thousand and two hundred fifty dollars (\$4,250) payable to Anias Lawrence.

28. Upon receipt of the checks, the United States shall send the Authority an executed Release of all claims (in the form of Appendix A), legal or equitable, that Kathy Green and/or Anias Lawrence might have against the Authority relating to the claims asserted in the above-captioned civil action and any other action pending with HUD stemming from the above allegations.

VII. DAMAGES FOR N.L., A MINOR

29. Within fifteen (15) days of the date of entry of this Order, the Authority shall pay N.L. four thousand and two hundred fifty dollars (\$4,250) in monetary damages.

30. The Authority shall pay said monetary damages by sending to the United States a check in the amount of four thousand and two hundred fifty dollars (\$4,250) payable to Kathy Green in her capacity as parent and natural guardian of N.L. Kathy Green, as parent and natural guardian of N.L., shall be required to accept the monetary damages on behalf of N.L. and shall deposit the monetary damages as required herein, without being required to post surety or performance bond.

31. Upon receipt of the monetary damages paid to and for the benefit of the minor child, N.L., Kathy Green shall deposit N.L.'s monetary damages (in the amount of four thousand and two hundred fifty dollars (\$4,250)) in an interest-bearing account in an FDIC insured banking institution, that has its principal place of business within the State of West Virginia, in the name of the minor child, N.L. (the "Account"), within five business days following the date on which the monetary damages are received.

32. The Account shall be established and structured so that the funds deposited therein shall be payable by said banking institution to N.L. alone, provided that she (1) presents proper photo-identification; and has obtain the age of majority. For purposes of this Order the age of majority shall be eighteen (18) years of age.

33. At such time as the monetary damages intended for N.L. are deposited in a banking institution in accordance with the terms of this Order, the United States and Kathy Green, N.L.'s parent and natural guardian, shall file with this Court a status report confirming that the monetary damages intended for N.L. have been deposited in a banking institution in compliance with this Order.

34. Upon receipt of the check in the amount of four thousand and two hundred fifty dollars (\$4,250) representing the monetary damages intended for N.L., the United States shall provide to the Authority an executed Release of all claims (in the form of Appendix A), legal or equitable, that N.L. might have against the Authority relating to the claims asserted in the above-captioned civil action and any other action pending with HUD stemming from the allegation set forth in the Complaint.

35. This Court shall retain jurisdiction of this matter for the purpose of considering any issue which may arise with respect to the settlement of the claims of the minor child, N.L., and the distribution, payment and deposit of the monetary for and on behalf of N.L.

VIII. SCOPE OF CONSENT ORDER

36. The provisions of this Consent Order shall apply to the Authority, its employees, agents, assigns, successors-in-interest, and all persons in active concert or participation with it.

**IX. MODIFICATIONS, ATTORNEY'S FEES AND COSTS,
AND REMEDIES FOR NON-COMPLIANCE**

37. Any time limits for performance imposed by this Consent Order may be extended by the mutual written agreement of the parties. The other provisions of this Consent 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 thirty (30) days from the date of the filing of the written agreement with the Court, and shall remain in effect for the duration of the Consent Order or until such time as the Court indicates through a written order that it has not approved the modification.

38. The parties to this Consent Order shall be responsible for their own attorney's fees and court costs, except as provided for in Paragraph 39 below.

39. The parties to this Consent Order shall endeavor in good faith to resolve informally any differences regarding the interpretation of and compliance with this Consent 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 the Authority, whether willful or otherwise, to perform in a timely manner any act required by this Consent Order or otherwise

comply with any provision thereof, the United States may move the Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring the 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 Authority's violation or failure to perform.

X. RETENTION OF JURISDICTION

40. This Consent Order shall be in effect for a period of three (3) years from its date of entry. The Court shall retain jurisdiction for the duration of this Consent Order to enforce its terms after which time this case shall be dismissed with prejudice. The United States may move the Court to extend the duration of the Consent Order in the interests of justice.

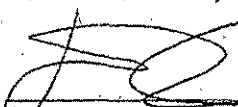
IT IS SO ORDERED.

This 26th day of April 2012.

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE

Approved as to form and substance:

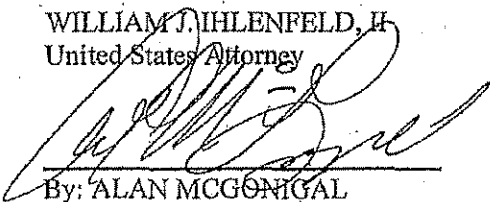
For the Defendant, Wheeling Housing Authority:



DAVID L. DELK, JR.
Bachman, Hess, Bachmann, & Garden, PLLC
1226 Chapline Street
P.O. Box 351
Wheeling, WV 26003
Phone: (304) 233-3511
Facsimile: (304) 233-3199
E-mail: ddelk@bhbglaw.com

For the United States:

WILLIAM J. IHLENFELD, II
United States Attorney



By: ALAN MCGONIGAL
WV Bar No. 6075
Assistant United States Attorney
Northern District of West Virginia
P.O. Box 591
Wheeling, WV 26003
Telephone: (304) 234-0100
Facsimile: (304) 234-0112
Email: Alan.McGonigal@usdoj.gov

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

/s/ Beth Frank
STEVEN H. ROSENBAUM, Chief
REBECCA B. BOND, Deputy Chief
BETH FRANK, Attorney
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Northwestern Building, 7th Floor
Washington, DC 20530
Beth.Frank@usdoj.gov
Phone: (202) 305-8196
Facsimile: (202) 514-1116

APPENDIX A

RELEASE OF ALL CLAIMS

In consideration for the parties' agreement to the terms of the Consent Order entered by the Court in United States v. Wheeling Housing Authority, Case No. 05:11-cv-00009 in the United States District Court for the Northern District of West Virginia and the Wheeling Housing Authority's 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 discrimination alleged in that litigation up to and including the date of execution of this release, that I may have against Defendant Wheeling Housing Authority, and any and all past and present directors, officers, agents, managers, supervisors and employees of the Wheeling Housing Authority, and their heirs, executors, administrators, successors or assigns.

Executed this ____ day of _____, 20__.

APPENDIX B

NONDISCRIMINATION POLICY

It is the policy of the Wheeling Housing Authority to comply with Title VIII of the Civil Rights Act of 1968 (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, among other things, that the Wheeling Housing Authority and all agents and employees of the Wheeling Housing Authority with the responsibility for renting, managing or administering any dwelling units must not discriminate on the basis of race in any aspect of the rental of dwellings to qualified applicants or tenants. Such agents and employees must refrain from:

- A. Discriminating against a person in the terms, conditions, or privileges of the rental of a dwelling or in the provision of services or facilities in connection with such dwelling, because of the race of that person, a person residing or intending to reside in the dwelling after it is rented, or any person associated with that person; and
- B. Coercing, intimidating, threatening, or interfering with a person in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, a right granted or protected by section 804 of the Fair Housing Act

Any agent or employee who fails to comply with this Nondiscrimination Policy shall be subject to appropriate disciplinary action. Any action taken by an agent or employee that results in the unequal service, treatment or behavior to tenants on the basis of race may constitute a violation of state and federal fair housing laws. Any tenant who believes that any of the above policies have been violated by the Wheeling Housing Authority or any of its agents or employees may contact the U.S. Department of Housing and Urban Development at 1-800-669-9777, or the U.S. Department of Justice at 1-800-896-7743.

APPENDIX C

EMPLOYEE ACKNOWLEDGMENT

I acknowledge that on _____, 201__, I was provided with a copy of the Consent Order entered by the Court in United States v. Wheeling Housing Authority, Case No. 05:11-cv-00009 in the United States District Court for the Northern District of West Virginia, and with a copy of the Wheeling Housing Authority's Nondiscrimination Policy. I have read and understand these documents and have had my questions about these documents answered. I understand my legal responsibilities and shall comply with those responsibilities.

[PRINT NAME]

[SIGNATURE]

[JOB TITLE]

APPENDIX D

EMPLOYEE TRAINING CERTIFICATION

I certify that on _____, 201__, I received training with respect to my responsibilities under the Consent Order entered by the Court in United States v. Wheeling Housing Authority, Case No. 05:11-cv-00009 in the United States District Court for the Northern District of West Virginia, and the federal Fair Housing Act. I have had the opportunity to have my questions about them answered. I understand my legal responsibilities not to discriminate under the federal fair housing laws, including the Fair Housing Act, and shall comply with those responsibilities.

[PRINT NAME]

[SIGNATURE]

[JOB TITLE]