

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
WILLIAM E. BREWER AND)
LENA P. BREWER,)
)
Defendants.)
_____)

CIVIL ACTION NO: 3:05-CV-579
(VARLAN/SHIRLEY)

CONSENT ORDER

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 - 3619. 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 violation of 42 U.S.C. § 3614.
2. In its complaint, the United States alleges that Defendant William E. Brewer engaged in a pattern or practice of discrimination on the basis of sex, in the rental of dwelling units he owned, co-owned and/or managed in and around Knoxville, Tennessee.
3. Specifically, the United States alleges that Defendant William E. Brewer has subjected female tenants of the subject properties to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment. Such conduct has included, but is not limited to, unwelcome sexual touching; unwelcome verbal sexual advances; entering

the homes of female tenants without permission or notice; and threatening and taking steps to evict female tenants when they refused or objected to his sexual advances, all in violation of 42 U.S.C. § 3604 (b) and (c). The United States alleges that this conduct resulted in the denial of housing to some female tenants, in violation of 42 U.S.C. § 3604(a); discrimination in the terms, conditions, or privileges of the rental of dwellings, or in the provision of services or facilities in connection therewith, because of sex, in violation of Section 42 U.S.C. § 3604(b); the making of statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on sex, in violation of Section 42 U.S.C. § 3604(c); and coercion, intimidation, threats, or interference with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights under 42 U.S.C. § 3617.

4. The United States alleges that Defendant Lena P. Brewer, who co-owned the dwelling units described above with her husband William E. Brewer (collectively "Defendants"), is liable for the above-described discriminatory conduct of her agent and principal, Defendant William E. Brewer, which conduct occurred within the scope of his employment and/or agency.
5. The Defendants deny that they have violated the Fair Housing Act and specifically deny all of the allegations recited above. The execution of this Consent Order is not, and is not to be considered as, an admission or finding of any violation of the Fair Housing Act. Rather, the parties have entered into this agreed Order to resolve voluntarily the claims asserted by the United States to avoid the risks and burdens of litigation. The parties have agreed that in order to avoid protracted and costly litigation over damages, this controversy should be resolved without a trial. Therefore, the parties consent to the entry

of this Consent Order.

6. The Defendants intend to contract with a realtor to assist in the sale of their Tennessee residential rental properties, and do not currently intend to continue in the business of renting residential properties in Tennessee.

II. SCOPE AND TERM OF CONSENT ORDER

7. The provisions of the Consent Order shall apply to Defendants William E. Brewer and Lena P. Brewer, their employees, agents, and all persons in active concert or participation with any of them.
8. This Consent Order is effective immediately upon its entry by the Court, subject to the following terms. For purposes of this Consent Order, the phrases "date of this Consent Order" and "effective date" shall refer to the date on which the Court enters the Consent Order.
9. This Consent Order shall be in effect for a period of five (5) years from the effective date.

III. INJUNCTION

10. It is hereby ORDERED, ADJUDGED AND DECREED that Defendants, their agents, employees, and all persons currently in active concert or participation with them, are hereby enjoined from:
 - a. Refusing to rent a dwelling unit, refusing or failing to provide or offer information about a dwelling unit, or otherwise making unavailable or denying a dwelling unit to any person based on sex;
 - b. 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, based on sex;

- c. 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
 - d. 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.
11. During the first one hundred twenty (120) days after the entry of this Consent Order, Mr. Brewer shall at all times be accompanied by a third party adult while conducting any business at his occupied rental properties, including repairs, rental collection, renting of the properties, or visits of any kind. This third party adult must be over the age of 18, and may include his attorney, a real estate professional, or adult family member, but may not include any person employed by Mr. Brewer to perform work at any rental property.
12. Should the Defendants continue to have any direct or indirect ownership, management, or other financial interest in any rental properties after one hundred twenty (120) days of the entry of the Consent Order, Defendants shall retain or otherwise enter into an agreement with an individual, approved by the United States (hereinafter "Manager"), to manage the rental of any and all residential rental properties for the duration of this Consent Order. The approval of the United States shall not be unreasonably withheld. The United States approves in advance the Defendants' son and daughter, William B. Brewer and Ethel Sue Smith.
13. These dwelling units shall be referred to as the "Subject Properties." A current and complete list of the Subject Properties is attached to this Consent Order as Attachment A.

14. The period following the first 120 days after the entry of this Consent Order and through the remaining duration of this order shall be referred to herein as the "Management Period."
15. If after retaining an independent Manager, Defendants wish to change to another independent Manager, Defendants may do so during the Management Period, provided that any such subsequent Manager must also be approved in advance by the United States pursuant to paragraph 12 above, and comply with the requirements for the Manager as described in this Consent Order.
16. During the Management Period, the Manager shall be responsible for all aspects of management of the Subject Properties that are rented or available for rent, including showing and renting units, making repairs, collecting rents, determining whom to rent to and/or evict, and all other aspects of the rental process.
17. During the Management Period, Defendant William E. Brewer shall refrain from entering the premises of the Subject Properties except that he may do so, when accompanied by the Manager, when it is necessary for him to inspect the property or show it to a prospective buyer, if that function cannot be reasonably delegated to an agent. However, in exigent circumstances requiring immediate aid or action, Defendant William E. Brewer may enter the premises unaccompanied for the period of the exigency.
18. Should the Defendants continue to have any direct or indirect ownership, management, or other financial interest in any rental properties after one hundred eighty (180) days of the entry of the Consent Order, then Defendants shall further require the Manager to do the following:

- a. Implement, subject to the United States' approval, which approval will not be unreasonably withheld, a written policy against sexual harassment, including a formal complaint procedure. A copy of this policy and procedure shall be provided to counsel for the United States within two hundred (200) days after the date of entry of this Consent Order. The policy and procedure shall be implemented within fifteen (15) days after approval by the United States as provided herein, and at that time the Manager shall notify all new and current tenants at the subject properties of the policy and procedure.
- b. The Manager shall be familiar with the requirements of the Fair Housing Act, particularly as they pertain to sex discrimination and sexual harassment.
- c. Require that all advertising conducted for any of the subject properties in newspapers, telephone directories, radio, television or other media, and all billboards, signs (including at the entrance to the property), pamphlets, brochures and other promotional literature, include either a fair housing logo, the words "equal housing opportunity provider," or substantially the following sentence:

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.

The words or logo should be legible and prominently placed.
- d. Send to the United States within one year after the entry of the Consent Order, and every six (6) months thereafter through the term of the Consent Order, except that the last submission is due sixty (60) days prior to the date of the expiration of the Consent Order, a list of all tenants at the subject properties and their telephone numbers. Maintain all rental records kept in relation to rental of the subject

properties, and allow the United States to inspect and copy all such records upon reasonable notice.

- e. Notify the United States in the event the Manager obtains any information indicating that either Defendant is in violation of this Consent Order.
- f. Provide any information reasonably related to compliance with this Consent Order that is reasonably requested by the United States.

19. The Defendants shall report to the United States in the event that either Defendant purchases, inherits, or otherwise acquires an interest in any residential real estate property for rental purposes, or sells, transfers or otherwise disposes of any interest in any of the subject properties. Such written notification¹ shall be made within thirty (30) days after the purchase, inheritance, acquisition, sale, or transfer of interest and shall include the identity of the potential purchaser(s) or person(s) to whom the interest is being transferred.

IV. MONETARY DAMAGES TO AGGRIEVED PERSONS

20. The Defendants will pay a total of one hundred ten thousand dollars (\$110,000.00) in monetary damages to persons whom the United States has identified as aggrieved persons. A list of such persons (hereinafter "identified aggrieved persons") identifying the specific amount to be paid to each person is attached as Attachment B. Within one hundred twenty (120) days of the date of entry of this Consent Order, Defendants shall

¹ 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 175-70-143, 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.

deliver to counsel for the United States a check made payable to the "United States of America," in the full amount of said monetary damages.

21. When counsel for the United States has received the check representing the monetary damages described in paragraph 20 above, it shall arrange for prompt delivery of payments to the aggrieved persons and obtain a signed release in the form of Attachment C from each such person. Counsel for the United States shall deliver the original, signed releases to counsel for Defendants. No aggrieved person shall be paid until she has signed and delivered to counsel for the United States the release at Attachment C.

V. CIVIL PENALTY

22. Defendants shall pay the sum of fifteen thousand dollars (\$15,000.00) to the United States as a civil penalty, pursuant to 42 U.S.C. § 3614(d)(1)(C). Within thirty (30) days after the entry of this Consent Order, Defendants shall pay the sum of ten thousand dollars (\$10,000.00) to the United States, and within one hundred twenty (120) days after the entry of the Consent Order, Defendants shall pay the remaining five thousand dollars (\$5,000.00). These payments shall be delivered to counsel for the United States in the form of a check payable to the "United States of America."
23. In the event that Defendants, their 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. REMEDIES FOR NON-COMPLIANCE, TIME FOR PERFORMANCE,
AND MODIFICATIONS**

24. All parties shall be responsible for their own attorney's fees and court costs, except as provided for in Paragraph 26 below.
25. Any time limits for performance imposed by this Consent Order may be extended by 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 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.
26. The parties to this Consent Order shall endeavor in good faith to resolve informally any differences regarding 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 either or both Defendants, whether willful or otherwise, to perform in a timely manner any act required by this Consent 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.

VII. DISMISSAL

27. The Court shall retain jurisdiction for the duration of this Consent Order to enforce the terms of the Consent Order, after which time the case shall be dismissed with prejudice. The United States agrees not to record any lien against the Subject Properties, including the recording of this Consent Order in the public records of Knox County, Tennessee, during the first 120 days after the entry of this Consent Order, except and unless the Defendants have failed to perform, or are attempting to avoid their monetary obligations set forth herein; in that case, the United States will promptly provide notice to counsel for Defendants of the United States' intent to file a lien and the reasons for such filing. Plaintiff may move the Court to extend the duration of the Order upon a showing of good cause in the interests of justice.

IT IS SO ORDERED:

This ___ day of _____, 2007.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE


Respectfully submitted this 11th day of April, 2007.

For Plaintiff United States of America:

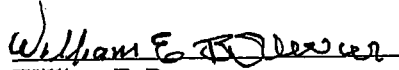
JAMES R. DEDRICK
United States Attorney

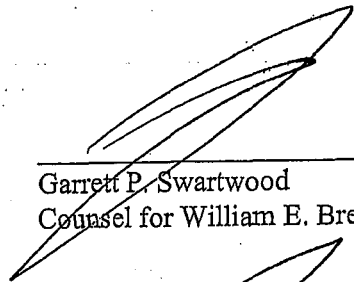
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Assistant Attorney General

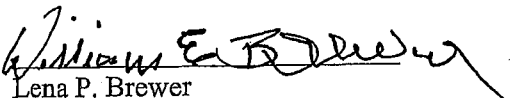
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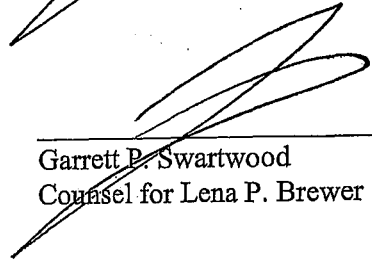

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William E. Brewer


Garrett P. Swartwood
Counsel for William E. Brewer

for 
Lena P. Brewer
by power of Attorney


Garrett P. Swartwood
Counsel for Lena P. Brewer

ATTACHMENT A
List of Properties

1. 230 East Caldwell Ave, Knoxville, TN
2. 231 East Caldwell Avenue, Knoxville, TN
3. 315 Atlantic Avenue, Knoxville, TN
4. 315 ½ Atlantic Avenue, Knoxville, TN
5. 316 Atlantic Avenue, Knoxville, TN
6. 319 Atlantic Avenue, Knoxville, TN
7. 3905 Fairmont Boulevard, Knoxville, TN
8. 312 Atlantic Avenue, Knoxville, TN
9. 4201 Sullivan Road, Knoxville, TN
10. 4405 Silver Hill, Knoxville, TN
11. 328 N. 3rd Street, Williamsburg, KY

ATTACHMENT B

Identified Aggrieved Persons and Amounts to Be Paid

| | |
|------------------|----------|
| Tammy Cooper | \$18,000 |
| Carolyn Irwin | \$16,000 |
| Sherry Fox | \$16,000 |
| Charlene Stemeye | \$16,000 |
| Ethel Woods | \$12,000 |
| Joann Irwin | \$12,000 |
| Crystal Cooper | \$9,500 |
| Angela Moates | \$8,000 |
| Georgia Surrett | \$2,500 |

ATTACHMENT C

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. William E. Brewer, et al., Civil No. 3:05-CV-579 (E. D. Tenn.), 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 William E. Brewer and Lena P. Brewer, 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 _____, 2007.

[Print Name]

[Signature]