IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA, Plaintiff, v. MARGIE LOFTUS, Defendant.	)	Civil No. 05-CV-2480 CM/JPO

CONSENT ORDER

I. INTRODUCTION

1. The United States of America filed the Complaint on behalf of "Complainant" Lee Zachary pursuant to subsection 812(o) of the Fair Housing Act ("the Act"), 42 U.S.C. § 3612(o).

2. The Complaint alleges that Defendant Margie Loftus discriminated against the Complainant, an African-American man, on the basis of race or color when Defendant refused to rent him an apartment in a four-unit apartment building located at 4712 - 4718 Mission Road in Roeland Park, Kansas ("the Subject Property"). At all times relevant to the Complaint, Defendant was the owner and lessor of the Subject Property.

3. The Complaint alleges that in refusing to rent to Complainant, Defendant's actions constituted (1) a refusal to rent, a refusal to negotiate for the rental of, or conduct otherwise making unavailable or denying dwellings to the Complainant because of race or color, in violation of subsection 804(a) of the Act, 42 U.S.C. § 3604(a), and (2) statements of preference or limitation on the basis of race in connection with the rental of dwellings, in violation of subsection 804(c) of the Act, 42 U.S.C. § 3604(c).

4. In December 2004, Complainant filed a timely complaint with the U.S. Department of Housing and Urban Development ("HUD"), pursuant to subsection 810(a) of the Act, 42 U.S.C. § 3610(a), alleging discrimination based on race in violation of the Act. HUD then conducted and completed an investigation of the complaint and determined that reasonable cause existed to believe that discriminatory housing practices had occurred. After Defendant elected to proceed in this Court, HUD referred the case to the U.S. Department of Justice ("the Department") for filing pursuant to subsection 812(o)(1) of the Act, 42 U.S.C. § 3612(o)(1). The Department filed suit on November 9, 2005.

5. The parties agree that this Court has jurisdiction over the subject matter of this case pursuant to subsection 812(o) of the Act, 42 U.S.C. § 3612(o), and 28 U.S.C. §§ 1331 and 1345.

6. The parties agree that, in order to avoid costly and protracted litigation, the claims against Defendant should be resolved without further proceedings. Therefore, as indicated by the signatures appearing below, the parties agree to the entry of this Consent Order. This Consent Order constitutes full resolution of the United States' claims that Defendant discriminated against Complainant on the basis of race or color.

It is hereby ORDERED, ADJUDGED, AND DECREED:

II. GENERAL INJUNCTION

7. Defendant, her officers, employees, agents, successors and assigns, and all other persons in active concert or participation with them are enjoined from:

   A. Refusing to rent, refusing to negotiate for the rental of, or engaging in conduct that otherwise makes unavailable or denies dwellings to any renter, or any person

associated with that renter, because of race or color, in violation of subsection 804(a) of the Act, 42 U.S.C. § 3604(a);

B. Making, printing or publishing, or causing 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, in violation of subsection 804(c) of the Act, 42 U.S.C. § 3604(c).

III. DAMAGES FOR AGGRIEVED PERSON

8. Within ten (10) days of the entry of this Consent Order, Defendant shall pay to Complainant seventeen thousand five hundred dollars ($17,500) in monetary damages. Defendant shall pay said money by sending to the United States a check for seventeen thousand five hundred dollars ($17,500) payable to Lee Zachary. Upon receipt of the check, the United States shall send to Defendant an executed Release of all claims, legal or equitable, that Complainant might have against Defendant relating to the claims asserted in this lawsuit. The Release should be substantially in the form of Appendix A.

IV. PUBLIC NOTICE OF NONDISCRIMINATION POLICY

9. Within ten (10) days of the date of entry of this Order and throughout the term of this Consent Order, Defendant shall post and prominently display in all rental properties owned or operated by her a sign no smaller than 10 inches by 14 inches indicating that all dwellings are available for rent on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.

10. Within ten (10) days of the date of entry of this Consent Order and throughout the term of

this Consent Order, Defendant shall ensure that any advertising for any rental property owned or operated by her, in newspapers, telephone directories, radio, television, the Internet, or other media, and on signs, pamphlets, brochures and other promotional literature, include a fair housing logo, the words "equal housing opportunity provider," and/or 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 prominently displayed and easily legible.

11. Within thirty (30) days of the entry of this Consent Order, Defendant shall provide to all employees and tenants of all rental properties owned or operated by her a written notice, conforming with that at Appendix B, describing Defendant's policy of nondiscrimination based on race and color. Defendant shall also provide this policy to all prospective tenants at the time of application.

V. TRAINING

12. Within thirty (30) days of the entry of this Consent Order, Defendant shall provide a copy of this Consent Order to all her agents and employees whose duties, in whole or in part, involve the management or administration of all rental properties owned or operated by her and shall secure the signed statement from each agent or employee acknowledging that he or she has received, read and understands the Consent Order and nondiscrimination policy, and has had an opportunity to have questions about the Consent Order and nondiscrimination policy answered. This statement shall be substantially in the form of Appendix C.

13. During the term of this Consent Order, each new employee or agent whose duties, in whole or in part, involve the management or administration of all rental properties owned or operated by Defendant shall be given a copy of this Consent Order and be required to sign a statement substantially in the form of Appendix C.

14. Within ninety (90) days of the date of entry of this Consent Order, Defendant and all employees and agents whose duties, in whole or in part, involve the management or administration of any rental property owned or operated by her shall undergo fair housing training. The training shall focus on discrimination because of race or color and shall inform these individuals of their obligations under the Consent Order as well as applicable state or local law. The training shall be conducted by a qualified third party, approved by the United States and unconnected to Defendant or her employees, agents or counsel, and any expenses associated with this training shall be borne by Defendant. Those who attend the training shall be required to sign a certification confirming their attendance, in a form substantially equivalent to Appendix D.

VI. REPORTING AND RECORD-KEEPING REQUIREMENTS

15. Within thirty (30) days of the entry of this Consent Order, and thereafter on the anniversary of the entry of this Consent Order, Defendant shall submit to the United States the signed statement of each agent and employee referred to in paragraphs 13-14, except that the final report shall be submitted sixty (60) days prior to the anniversary of this Consent Order.[1]

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[1] All submissions to the United States or its counsel shall be made to U.S. Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section – NWB, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, Attn: DJ No. 175-29-101.

16. Within thirty (30) days after the training required by paragraph 14, above, Defendant shall provide to the United States the following: (1) the name(s), address(es) and telephone number(s) of the trainer(s); (2) copies of the training outlines and any materials distributed by the trainer(s); and (3) the certifications required by paragraph 15 executed by Defendant and covered employees and agents confirming their attendance, in a form substantially equivalent to Appendix D.

17. For the duration of this Consent Order, Defendant shall advise counsel for the United States, in writing, within fifteen (15) days of receipt of any complaint of housing discrimination against Defendant, or against any of Defendant's agents, officers, or employees. Such report shall include the date of the complaint, a description of the nature of the complaint, and contact information for the complaining party. Within fifteen (15) days of the resolution of any such complaint, Defendant shall advise counsel for the United States in writing, of such resolution.

18. For the duration of this Consent Order, Defendant shall preserve all records related to this Consent Order and to all rental properties owned, operated or acquired by them. Such documents include, but are not limited to, advertisements, applications, leases, resident assessment materials, tenant files, policies and procedures, and inquiry logs. Upon reasonable notice to Defendant, representatives of the United States shall be permitted to inspect and copy any of Defendant's records or inspect any covered dwelling under Defendant's control 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 Defendant from such inspections.

VII. DURATION OF ORDER AND TERMINATION OF LEGAL ACTION

19. The Court shall retain jurisdiction for three (3) years after the date of entry of this Consent Order to enforce the terms of the Consent Order, after which time the case shall be dismissed with prejudice. Prior to the expiration of the Consent Order's term, the United States may move the Court to extend the duration of the Consent Order for good cause, including on the basis that Defendant has failed to comply with the provisions of this Consent Order.

20. The provisions of paragraphs 9 – 18 above, shall be effective only during the period of time which Defendant Margie Loftus is engaged in the rental business, which includes owning, in whole or part, any residential rental property or being involved in the rental or management of any residential rental property. Written notice and proof that Defendant has ceased to engage in the rental business shall be provided to the United States within fifteen (15) days of the date Defendant ceased engaging in the rental business, and Defendant shall provide a report every six (6) months for the duration of this Consent Order, indicating that Defendant is not engaged in the rental business. In the event Defendant reenters the rental business, after a period of cessation, during the Consent Order's term, Defendant shall notify the United States, in writing, of that fact within fifteen (15) days of the date Defendant reentered the rental business, and the provisions of paragraphs 9 – 18 shall immediately be effective for the duration of this Consent Order.

21. The parties 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 of a failure by Defendant 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 or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

VIII. TIME FOR PERFORMANCE

22. Any time limits for performance imposed by this Consent Order may be extended by the mutual written agreement of the United States and the Defendant.

IX. COSTS OF LITIGATION

23. Each party to this Consent Order shall bear its own costs and attorneys' fees associated with this litigation.

IT IS SO ORDERED:

This 15th day of September, 2006.

s/ Carlos Murguia
UNITED STATES DISTRICT JUDGE

FOR PLAINTIFF UNITED STATES OF AMERICA:

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United States Attorney

WAN J. KIM
Assistant Attorney General
Civil Rights Division

/s/ Ryan G. Lee
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APPENDIX A

RELEASE OF CLAIMS

In consideration of the parties' agreement to the provisions of the Consent Order entered in United States v. Margie Loftus, Civil No. 05-CV-2480 (D. Kan.), and the payment of the sum of seventeen thousand five hundred dollars ($17,500) by the defendant named in this action, Margie Loftus ("Defendant"), I, Lee Zachary, hereby release Defendant from any and all liability for any claims, legal or equitable, I may have against Defendant arising out of the issues alleged in this action. I fully acknowledge and agree that this release of Defendant 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.

_____
SIGNATURE

NAME: _____

ADDRESS: _____
_____
_____

DATE: _____

APPENDIX B

NONDISCRIMINATION POLICY

It is the policy of Margie Loftus 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 Margie Loftus and all agents or employees of Mrs. Loftus with the responsibility for renting, managing or administering any dwelling units must not discriminate on the basis of race or color in any aspect of the rental of dwellings to qualified applicants or tenants. Such agents and employees must refrain from–

A. Refusing to rent, refusing to negotiate for the rental of, or engaging in conduct that otherwise makes unavailable or denies dwellings to any renter, or any person associated with that renter, because of race or color;

B. Discriminating against any renter in the terms, conditions or privileges of rental of a dwelling because of race or color;

C. Making, printing or publishing, or causing 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;

D. Coercing, intimidating, threatening or interfering with any person in the exercise or enjoyment of, or on account of his/her having exercised or enjoyed, or on account of his/her having aided and encouraged any other person in the exercise or enjoyment of, any right granted by the Fair Housing Act.

Any agent or employee who fails to comply with this nondiscrimination 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. Any tenant who believes that any of the above policies has been violated by any owner, agent or employee 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 or 202-514-4713.

APPENDIX C

EMPLOYEE ACKNOWLEDGMENT

On _____, 200___, I, _____, was instructed by _____ with respect to my responsibilities under the Consent Order entered by the U.S. District Court in United States v. Margie Loftus, Civil No. 05-CV-2480 (D. Kan.) and the federal Fair Housing Act. I was also instructed as to Margie Loftus' rental policies and procedures. I have received copies of and have read the Consent Order and the nondiscrimination policy. I understand my legal responsibilities and will comply with those responsibilities.

_____
Signature

_____
Print name

_____
Job Title

_____
Date

APPENDIX D

EMPLOYEE CERTIFICATION

On _____, 200__, I, _____, was instructed by _____ with respect to my responsibilities under the Fair Housing Act. I understand my legal responsibilities and will comply with those responsibilities.

_____
Signature

_____
Job Title

_____
Date