

**SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND  
MSM BROTHERS, INC. D/B/A WHITE CLIFFS AT DOVER AND KIM HUGHES,  
RESOLVING *UNITED STATES v. MSM BROTHERS, INC., et al.*, 17-cv-00321 (D. N.H.)**

**I. INTRODUCTION**

1. This Settlement Agreement (“Agreement”) is made and entered into by and between Plaintiff, the United States of America (“the United States”), through the United States Department of Justice, and Defendants MSM Brothers, Inc. d/b/a White Cliffs at Dover and Kim Hughes, through their authorized representative. Plaintiff and Defendants are referred to collectively as “the Parties.” MSM Brothers, Inc. and Kim Hughes are referred to collectively as “Defendants.”

**II. RECITALS**

2. This Agreement resolves a Complaint filed on July 20, 2017 in *United States v. MSM Brothers, Inc. et al.*, No. 1:17-cv-00321-PB, in the United States District Court for the District of New Hampshire. The Complaint, filed by the United States on behalf of Kelsie Hoyne (“Complainant”), against Defendants, alleges violations of the Fair Housing Act (“FHA”), as amended, 42 U.S.C. §§ 3601 *et seq.* (hereinafter “Civil Action”).

3. Defendants are the owners, operators, and managers of White Cliffs at Dover apartments (“Subject Property”), a 192-unit multifamily property located at 510 Martha’s Way in Dover, New Hampshire. Units at the Subject Property are “dwellings” within the meaning of 42 U.S.C. § 3602(b).

4. Defendant MSM Brothers, Inc. owns the Subject Property. Defendant Kim Hughes is or was at the time of the events alleged in the Complaint an agent of MSM Brothers, Inc., and provided management services at the Subject Property.

5. On August 24, 2016, Complainant filed an administrative complaint with the United States Department of Housing and Urban Development (“HUD”) alleging discrimination by Defendants in violation of the FHA. The complaint was amended on March 31, 2017. The Secretary of HUD (“the Secretary”) completed an investigation of the complaint, which included, among other things, extensive interviews of Defendant Kim Hughes and other property management staff and current residents of the Subject Property. Following the investigation, on May 5, 2017, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination, charging Defendants with discriminatory housing practices in violation of the FHA.

6. Defendants and Complainant elected on May 22, 2017, and May 24, 2017, respectively, to have the Charge of Discrimination resolved in a civil action filed in federal district court. The Secretary therefore authorized the Attorney General to commence this Civil Action, pursuant to 42 U.S.C. § 3612(o) of the FHA.

7. On July 20, 2017, the United States filed the Civil Action to enforce the provisions of the FHA.

8. The United States’ Complaint alleges that Defendants have engaged in housing practices that discriminate on the basis of familial status by:

- a. Refusing to negotiate the rental of a first-floor unit to Complainant because she had a child under the age of ten;
- b. making discriminatory statements to Complainant indicating that Defendants had a preference against renting first-floor dwelling units at the Subject Property to families with children under the age of ten; and

- c. adopting and implementing a policy of refusing to rent first-floor dwelling units at the Subject Property to families with children under the age of ten.
9. The United States alleges that, through this conduct, Defendants have:
- a. Violated 42 U.S.C. § 3604(a) by making unavailable and/or denying housing because of familial status;
  - b. Violated 42 U.S.C. § 3604(b) by discriminating in the terms, conditions, or privileges of rental of a dwelling, and/or in the provision of services or facilities in connection therewith, because of familial status; and
  - c. Violated 42 U.S.C. § 3604(c) by making, printing, or publishing, and/or causing to be made, printed or published, any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination.
10. The Defendants have denied the allegations set forth in Paragraphs 8 and 9.
11. The Parties stipulate that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o).

### **III. STATEMENT OF CONSIDERATION**

12. The Parties agree that the claims against Defendants should be resolved without further proceedings or a trial. Therefore, the United States and the Defendants agree to the entry of this Agreement. This Agreement constitutes a full resolution of the claims in the United States' Complaint in this case against the Defendants.

13. Defendant MSM Brothers, Inc., has attested that it does not have any other residential rental property that it owns or manages at which it implements a policy or practice of

refusing to rent dwellings to households with children, or limiting where such households may live.

14. In consideration of, and consistent with, the terms of this Agreement, the Parties will move jointly for dismissal of the Civil Action, consistent with the terms set forth in Section V of this Agreement. The Parties agree and acknowledge that this consideration is adequate and sufficient.

THEREFORE, the Parties, through their authorized representatives, hereby stipulate and agree as follows:

#### **IV. TERMS AND CONDITIONS**

##### **A. Monetary Damages for the Complainant**

15. Within 30 days of the effective date of this Agreement, Defendants shall pay a total of **\$25,000** (twenty-five thousand dollars) in monetary damages to Complainant by delivering to counsel for the United States a check payable to Kelsie Hoyne. Upon receipt of this check, counsel for the United States shall deliver a signed release in the form of **Appendix D** from Kelsie Hoyne to counsel for Defendants. Ms. Hoyne shall not receive the check until she has signed and delivered to counsel for the United States the release at **Appendix D**.

##### **B. Prohibited Conduct and Affirmative Obligations**

16. Defendants, their agents, employees, successors, and all other persons in active concert or participation with Defendants in their ownership, operation, or management of rental dwelling<sup>1</sup>, shall not:

- a. Refuse to rent or sell a dwelling, refuse or fail to provide or offer information about a dwelling, refuse to negotiate for the rental or sale of a dwelling, or

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<sup>1</sup> The term "dwellings" has the meaning set out in the Fair Housing Act, 42 U.S.C. § 3602(b).

otherwise make unavailable or deny a dwelling to any person because of familial status in violation of 42 U.S.C. § 3604(a);

b. Discriminate against any person in the terms, conditions, or privileges of the rental or sale 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); or

c. Make any statement, oral or written, in connection with the rental or sale of a dwelling, that expresses or indicates any preference, limitation, or discrimination, or an intent to make any such preference, limitation, or discrimination, on the basis of familial status in violation of 42 U.S.C. § 3604(c).

17. The provisions of this Section shall apply to the Subject Property and all dwellings in which any Defendant has or acquires a direct or indirect ownership, management, or other financial interest. Defendants agree that the Subject Property does not satisfy the requirements for Housing for Older Persons, *see* 42 U.S.C. § 3607(b), and agree that they will not seek to qualify the Subject Property as Housing for Older Persons within the time period this Agreement is in effect.

**C. Non-Discrimination Policy and Notice to Public**

18. Upon the effective date of this Agreement, Defendant MSM Brothers, Inc. shall implement at the Subject Property the Nondiscrimination Policy appearing at **Appendix A**.

19. Within 30 days of the effective date of this Agreement and throughout its term, Defendant MSM Brothers, Inc. shall distribute the Nondiscrimination Policy to all of its current tenants, and, in accordance with Paragraph 21, to Defendant MSM Brothers, Inc.'s employees,

agents, and anyone acting under the direction of Defendant MSM Brothers, Inc., including Defendant Kim Hughes, who has responsibility for showing, renting, managing, or operating any and all dwellings at the Subject Property.

20. Within 30 days of the effective date of this Agreement, and continuing throughout the term of the Agreement, Defendant MSM Brothers, Inc. shall take the following steps to notify the public of Defendant MSM Brothers, Inc.'s commitment to not discriminate in the rental of dwellings:

- a. Prominently post at the rental office(s) that Defendant MSM Brothers, Inc. uses at any time during this Agreement to transact business related to the rental of dwellings, a fair housing sign no smaller than ten (10) inches by fourteen (14) inches that indicates that all rental dwelling units are available for rent on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement. Defendant MSM Brothers, Inc. may use HUD Form 928, copies of which are available free of charge by calling HUD directly at 800-669-9777 or online at <https://portal.hud.gov/hudportal/documents/huddoc?id=928.1.pdf>;
- b. Include the words "Equal Housing Opportunity" and/or the fair housing logo in all rental advertising for the Subject Property conducted by Defendant MSM Brothers, Inc., or its agents or employees, in any medium, online, in print or otherwise; including in or on websites, newspapers, flyers, handouts, telephone directories and other written materials; on radio, television, internet or other media broadcasts; and on billboards, signs, pamphlets, brochures and other promotional literature, provided that this requirement does not compel

Defendant MSM Brothers, Inc. to advertise in any of these media, but does require compliance with this provision whenever Defendant MSM Brothers, Inc. so advertises. The words and/or logo shall be prominently placed and easily readable; and

- c. Include the following phrase in all rental application(s) and all rental agreement(s) used in the future for rental dwelling units at all properties owned or managed by Defendant MSM Brothers, Inc. in boldface type, using letters of equal or greater size to those of the text in the body of the document:

We are an equal housing opportunity provider. We do not discriminate on the basis of race, color, sex, national origin, religion, disability or familial status (residing with children under age 18).

**D. Mandatory Training**

21. Within 30 days of the effective date of this Agreement, Defendant MSM Brothers, Inc. shall provide a copy of this Agreement to its current employees and agents who are or were involved in showing, renting, managing, or operating any dwelling unit at the Subject Property, including Defendant Kim Hughes. Defendant MSM Brothers, Inc. shall secure a signed statement from each such agent or employee acknowledging that he or she has received and read the Agreement and the Nondiscrimination Policy (**Appendix A**), has had the opportunity to have questions about the Agreement and Nondiscrimination Policy answered, and agrees to abide by the relevant provisions of the Agreement and the Nondiscrimination Policy. This statement shall be in the form of **Appendix B**.

22. During the term of this Agreement, within 30 days after each new agent or employee becomes involved in showing, renting, managing or operating any dwelling unit at the Subject Property, Defendant MSM Brothers, Inc. shall provide a copy of this Agreement and the

Nondiscrimination Policy to each such agent or employee and secure a signed statement from each agent or employee acknowledging that he or she has received and read the Agreement and the Nondiscrimination Policy (**Appendix A**), has had the opportunity to have questions about the Agreement and Nondiscrimination Policy answered, and agrees to abide by the relevant provisions of the Agreement and the Nondiscrimination Policy. This statement shall be in the form of **Appendix B**.

23. Within 90 days from the effective date of this Agreement, Defendant MSM Brothers, Inc., all its agents and employees, including Defendant Kim Hughes, and other agents or employees associated with the operations of the Subject Property, shall undergo in-person training on the Fair Housing Act, with specific emphasis on discrimination on the basis of familial status. The training shall be conducted by an independent, qualified third party, approved in advance by the United States, and shall last at least two hours. Any expenses associated with this training shall be borne by Defendant MSM Brothers, Inc. Each individual who receives the training shall execute the Certificate of Training, attached hereto as **Appendix C**.

24. During the term of this Agreement, all new agents or employees responsible for showing, renting, managing, and/or operating dwelling units at the Subject Property must receive the fair housing training, described in Paragraph 23, within 60 days of beginning their employment or agency and shall complete **Appendix C**.

**E. Non-Discrimination Standards and Procedures**

25. Within 30 days from the effective date of this Agreement, Defendant MSM Brothers, Inc. shall develop and submit to the United States, with respect to the Subject Property, objective, uniform, non-discriminatory standards and procedures for informing persons about



and showing available dwelling units to prospective tenants. The portions of such standards and procedures that provide protections for tenants and prospective tenants from discrimination on the basis of familial status shall be approved by the United States in advance of their implementation. Within 5 days of when the United States approves the standards and procedures, Defendant MSM Brothers, Inc. shall implement and prominently display them in any office where there is rental activity and/or personal contact with tenants or prospective tenants. Defendant MSM Brothers, Inc. and its agents, including Defendant Kim Hughes, and employees shall make available a copy of these standards and procedures upon request to any prospective tenant for the rental of a dwelling. For the duration of this Agreement, these standards and procedures may be modified only if written notice is given to counsel for the United States 30 days before the proposed modifications are to take effect and the United States makes no objection thereto.

26. The nondiscriminatory standards and procedures required by Paragraph 25, above, shall include the use of the following documents, which Defendant MSM Brothers, Inc. shall update for the Subject Property as new information becomes available, and retain for the duration of this Agreement:

- a. In Person and Online Inquiry Records: Defendants shall ensure that, for all prospective tenants who inquire in person or online about dwelling units, a paper and/or electronic file or other similar record is completed, either by the prospective tenant and/or Defendants that contains:
  - i. The date of the prospective tenant's visit/online request and, when the prospective tenant agrees to provide the information, the

prospective tenant's name, address, daytime, and evening telephone numbers;

- ii. The dwelling size the prospective tenant requests and the date on which the prospective tenant wishes to move;
  - iii. Whether the prospective tenant filled out an application;
  - iv. Whether the prospective tenant was invited to see available dwelling units, and if not invited, an explanation why not; and
  - v. The names of all employees/agents who assisted the prospective tenant, if applicable.
- b. Phone Logs: Defendant MSM Brothers, Inc. shall ensure that, for all prospective tenants who inquire by telephone about dwelling units, Defendants shall maintain a phone log that contains the following information:
- i. The date of the prospective tenant's phone call and, when the prospective tenant agrees to provide the information, the prospective tenant's name and telephone number(s);
  - ii. The dwelling size the prospective tenant requests and the date on which the prospective tenant wishes to move;
  - iii. Whether the prospective tenant was invited to see available dwelling units, and if not invited, an explanation why not;
  - iv. If applicable, the date and time on which the prospective tenant is going to view the dwellings; and

- v. The names of all employees/agents who assisted the prospective tenant.
- c. Availability List: Defendant MSM Brothers, Inc. shall ensure that it maintains and timely updates an Availability List that includes the unit numbers and dwelling size known to be available or reasonably expected to be available for rental within 30 days, including the date either the Defendant MSM Brothers, Inc. or Defendant's agent(s), including Defendant Kim Hughes, was first informed each would be available for rental and the first date it would be available for rental or occupancy by a new tenant. Defendant MSM Brothers, Inc., its agents, including Defendant Kim Hughes, and its employees shall share the information on the Availability List with each person who visits or calls to inquire about the availability of dwelling units.
- d. Rental Applications: Defendant MSM Brothers, Inc., its agents, including Defendant Kim Hughes, and its employees shall provide and process rental applications on a non-discriminatory basis and shall maintain all rental applications, whether deemed complete or incomplete, and any correspondence about the availability of dwelling units.
- e. Waiting Lists: Defendant MSM Brothers, Inc., its agents, including Defendant Kim Hughes, and its employees shall maintain waiting lists in a non-discriminatory manner and develop uniform standards for selecting individuals from the list.

**F. Compliance Testing**

- 27. The United States may take steps to monitor Defendants' compliance with this

Agreement including, but not limited to, conducting fair housing tests at any office(s) or locations at which Defendants conduct rental activities.

**G. Reporting and Document Retention Requirements**

28. Defendants shall, no later than 15 days after occurrence, provide to the United States notification and documentation of the following events:<sup>2</sup>

- a. Any change to the rules or practices regarding the nondiscrimination policy discussed in Section IV, Subsection C, or the nondiscriminatory standards and procedures discussed in Section IV, Subsection E, above;
- b. Proof of notification of the Agreement and/or the nondiscrimination policy described in Section IV, Subsections C and D, including executed copies of the Acknowledgment forms, appearing at **Appendix B**; certifications of training, appearing at **Appendix C**, and a list of the names and addresses of all tenants to whom the Agreement and/or the nondiscrimination policy was provided;
- c. Photographs of each office in which rental activity is conducted showing the fair housing signs, pursuant to Section IV, Subsection C, of this Agreement;

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<sup>2</sup> All correspondence required to be sent to the United States under the provisions of this Settlement Agreement shall be sent to the U.S. Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section, ATTN: MSM Brothers, Inc., DJ# 175-47-44, at the following addresses:

Regular U.S. Mail: 950 Pennsylvania Avenue, N.W. - NWB  
Washington, D.C. 20530

Overnight Mail: 1800 G Street, N.W.  
Suite 7002  
Washington, D.C. 20006.

Correspondence may also be sent via electronic mail to the U.S. Department of Justice, care of a representative for the United States whom the United States will designate for Defendants.

d. A sample of the rental application and lease adopted and implemented pursuant to Paragraph 20(c) and any modifications to the rental application or lease; and

e. Any written or oral complaint against any of Defendants, or Defendants' agents or employees, regarding discrimination in housing. If the complaint is written, Defendant(s) 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. Defendants shall also promptly provide the United States with all information it may request concerning any such complaint and shall inform the United States within 15 days of the substance of any resolution of such complaint.

29. Within 30 days of the effective date of this Agreement, and thereafter on the anniversary of the effective date of this Agreement for its duration, Defendants shall deliver to counsel for the United States a report containing information regarding their compliance efforts with respect to the Subject Property during the preceding reporting period, including but not limited to:

- a. Executed copies of **Appendices B and C**, to the extent not previously provided;
- b. Notification and documentation of the adoption and implementation of the nondiscriminatory standards and procedures discussed in Section IV, Subsection E, and any modifications to these standards and procedures;

- c. Photographs of any new and/or additional office(s) in which rental activity is conducted showing the Nondiscrimination policy and notice to the public, pursuant to Section IV, Subsection C, of this Agreement; and
- d. Any published advertisements pursuant to Paragraph 20(b).

The final report to the United States shall be submitted no later than 60 days before the expiration of this Agreement.

30. During the period in which this Agreement is in effect, Defendants shall preserve all records for the Subject Property that are the source of, contain, or relate to any of the information pertinent to their obligations under this Agreement, including, but not limited to, all guest files or other similar reports, availability lists, waiting lists, rental applications, leases, rental roll ledgers, and occupancy lists. Upon reasonable notice to counsel for Defendants, representatives of the United States shall be permitted to inspect and copy all such records related to this Agreement at any and all reasonable times or, upon request by the United States, Defendants shall provide copies of such documents; provided, however, that the United States shall endeavor to minimize any inconvenience to Defendants.

#### **G. Acquisition or Transfer of Interest in Dwellings**

31. If Defendant Kim Hughes becomes involved in the management of any residential rental property for which she does not currently have any management responsibilities, she shall inform the United States within thirty (30) days of the commencement of such involvement and provide the date on which the involvement began; the nature of the involvement; the address of the property; and the number of dwelling units. If, at any time before the expiration of this Agreement, any Defendant acquires a direct or indirect management, ownership, financial, or control interest in any other residential rental property, such property shall become subject to the

applicable provisions of this Agreement. Within thirty (30) days of acquiring such an interest, Defendants shall notify counsel for the United State of the nature of the Defendant's interest in the dwelling units at the property, and any other information required under the Agreement. Defendants shall further provide a copy of documents memorializing the transfer in interest.

32. If, at any time before the expiration of this Agreement, the Subject Property or other property subject to this Agreement has been or is sold or transferred to a bona fide, independent, third-party purchaser in an arms-length transaction<sup>3</sup>, such property shall cease to be subject to this Agreement. For purposes of this paragraph, a "bona fide, independent, third-party purchaser" is one in which neither Defendants nor a corporation or entity of which any Defendant is an officer, partner, employee, or agent, has any current or past financial, contractual, personal, or familial relationship.

33. If Defendant MSM Brothers, Inc. maintains that its obligations under this Agreement have terminated or changed because Defendant MSM Brothers, Inc. has sold or transferred all or any portion of the Subject Property to a bona-fide third party purchaser in an arms-length transaction, Defendant MSM Brothers, Inc. shall inform the United States within thirty (30) days of such transaction and provide the date of the sale or transfer, copies of the sale or transfer documents, the name(s) and contact information for the purchaser, and will issue to the United States its final report pursuant to Paragraph 29.

34. If any transfer of Defendant MSM Brothers, Inc.'s interest in the Subject Property or any Defendant's interest in another property subject to this Agreement is not an arms-length

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<sup>3</sup> For purposes of this Agreement, "arms-length transaction" is defined as a transaction that has been arrived at in the marketplace between independent, non-affiliated persons, unrelated by blood or marriage, with opposing economic interests regarding that transaction. A transaction involving a corporate entity in which any Defendant, or any person related to any Defendant by blood or marriage, is an officer, agent, employee, or partner, or has any ownership, financial, or control interest, shall not be considered an arms-length transaction.



transaction, Defendants and the new owner(s) shall remain jointly and severally liable for any violations of this Agreement for its duration.

**V. IMPLEMENTATION, ENFORCEMENT, AND DISMISSAL OF UNDERLYING ACTION**

35. The United States may review compliance with this Agreement at any time. Defendants agree to cooperate with the United States in any review of compliance with this Agreement. Upon reasonable notice, Defendants shall permit counsel for the United States to inspect and copy all non-privileged records pertinent to this Agreement.

36. Should the Defendants fail to timely make any required settlement payment described herein or materially breach any other provision of this Agreement, the Parties agree that upon any such claim of breach as made by the United States, the United States may move to restore the present Civil Action to the active docket of this Court for purposes of resolution of any such claim of breach, or may file a separate action in the United States District Court for the District of New Hampshire to remedy the breach. In the event of such a claim of breach as made by the United States, the Defendants consent to and agree not to contest the United States' motion to restore the present Civil Action to the Court's active docket, and consent to and agree not to contest the exercise of jurisdiction, including personal jurisdiction over the Defendants, by this Court.

37. Before taking the steps outlined in the preceding Paragraph, the United States shall first provide Defendants notice of any breach in writing and shall afford them 30 days from the date of mailing to cure the default.<sup>4</sup>

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<sup>4</sup> Notice shall be made to counsel for Defendants at: David P. Azarian, Esq., Azarian Law Office, PLLC 90 Washington Street, Suite 301 B/C, Dover, NH 03820



38. In the event the United States reinstates the Civil Action as contemplated by Paragraph 36, above, or any other civil action is commenced to remedy breach of this Agreement, the United States may seek the following: 1) an order mandating specific performance of any term or provision in this Agreement, without regard to whether monetary relief would be adequate; 2) an award of reasonable attorneys' fees and costs incurred in bringing an action to remedy breach of this Agreement; and 3) any additional relief that may be authorized by law or equity. If the Civil Action is reinstated or any other such civil action is filed, Defendants expressly agree not to count the time during which this Agreement is in place, or use the terms or existence of this Agreement, to plead, argue or otherwise raise any defenses under theories of claim preclusion, issue preclusion, statute of limitations, estoppel, laches, or similar defenses.

39. Failure by the United States to enforce any provision of this Agreement shall not operate as a waiver of the United States' right or ability to enforce any other provision of this Agreement.

40. Following the execution of this Agreement, the parties shall jointly move the Court for dismissal with prejudice of the underlying Civil Action, subject to its reinstatement as set forth in Paragraph 36, above.

#### **VI. TERMINATION OF LITIGATION HOLD**

41. The Parties agree that, as of the date of the effective date of this Agreement, litigation is not "reasonably foreseeable" concerning the matters described in the United States' Complaint. To the extent that any Party previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described in the Complaint, that Party is no longer required to maintain such a litigation hold. Nothing in this

paragraph relieves any Party of any other obligations imposed by this Agreement.

**VII. DURATION, EXECUTION, AND OTHER TERMS**

42. This Agreement is effective on the date of signature of the last signatory to the Agreement. The Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

43. Except with respect to those obligations set forth in Paragraph 16, the provisions of this Agreement shall remain in effect for four years after the effective date.

44. Except as stated in Paragraph 38, above, each Party shall bear its own legal or other costs incurred in connection with this matter, including the preparation, negotiation and performance of this Agreement.

45. This Agreement, including Appendices A-C, constitutes the complete agreement between the parties relating to the claims made in the Complaint. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provision herein or in any other proceeding.

46. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion. The Parties agree that each Party and its representatives have acted consistent with the duty of good faith and fair dealing.

47. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

48. The provisions of this Agreement shall apply to the Defendants and their officers, employees, agents, successors and assigns, and all other persons or entities in active concert or participation with any Defendant.

49. This Agreement is governed by and shall be interpreted under the laws of the United States. For purposes of construing or interpreting this Agreement, this Agreement shall be deemed to have been drafted by all Parties and shall not be construed or interpreted against any Party for that reason in any subsequent dispute.

50. Except where this Agreement expressly conditions or predicates performance of a duty or obligation upon the performance of a duty or obligation by another Party, the performance of one Party's duties or obligations under this Agreement shall not be discharged or excused by the actual or alleged breach of the duties and obligations of another Party.

51. This Agreement is a public document. The Parties agree and consent to the United States' disclosure of this Agreement and information concerning this Agreement to the public.

52. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

53. The Parties agree that they will defend this Agreement against any challenge by any third party. In the event that this Agreement or any of its terms are challenged in a court other than the United States District Court for the District of New Hampshire, the Parties agree that they will seek removal and/or transfer to the United States District Court for the District of New Hampshire.

54. This Agreement may be modified only with the written consent of the Parties. Any modification must be in writing and signed by the parties to the particular obligation through their authorized representatives.

*For Plaintiff, the United States:*

DATED: December 12 2017

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Acting United States Attorney  
District of New Hampshire

/s/ M. McCormack  
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United States Department of Justice  
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Lauren.Marks@usdoj.gov

*For Defendants MSM Brothers, Inc. and Kim Hughes:*

DATED: December 12, 2017

/s/ David P. Azarian  
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**APPENDIX A**

**NONDISCRIMINATION POLICY**

It is the policy of the owners and operators of White Cliffs at Dover apartments – MSM Brothers, Inc. – to comply with Title VIII of the Civil Rights Act of 1968, as amended, 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, sex, or familial status. This policy means that, among other things, the owners and operators of White Cliffs at Dover apartments and all their agents and employees with the responsibility for renting, managing, or administering any dwelling units must not discriminate in any aspect of the rental of dwellings against qualified applicants or tenants. Specifically, they may not:

- A. Refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, disability, sex, or familial status (residing with a child under eighteen);
- B. Discriminate 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 race, color, religion, national origin, disability, sex, or familial status (residing with a child under eighteen);
- C. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, disability, sex, or familial status (residing with a child under eighteen); or
- D. Represent to persons because of race, color, religion, national origin, disability, sex, or familial status (residing with a child under eighteen) that any dwelling is not available for inspection or rental when such dwelling is in fact so available.

Any agent or employee who fails to comply with this Nondiscrimination Policy will be subject to appropriate disciplinary action. Any action taken by an agent or employee that results in unequal service to, treatment of, or behavior toward tenants or actual or potential applicants on the basis of race, color, religion, national origin, disability, sex, or familial status may constitute a violation of state and federal fair housing laws. Any tenant or applicant who believes that any of the above policies have been violated by any owner, agent, or employee may contact the U.S. Department of Housing and Urban Development at 1-888-799-2085, or the U.S. Department of Justice at 1-800-896-7743 or 202-514-4713.

**APPENDIX B**

**ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT AGREEMENT AND  
NONDISCRIMINATION POLICY**

I acknowledge that on \_\_\_\_\_, 20\_\_, I was provided a copy of the Settlement Agreement in *United States v. MSM Brothers, Inc. et al.*, No. 1:17-cv-00321-PB (D. N.H.), and a copy of the Nondiscrimination Policy adopted by Defendant MSM Brothers, Inc. pursuant thereto. 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.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Job Title/Position

\_\_\_\_\_  
Date

**APPENDIX C**

**EMPLOYEE TRAINING ACKNOWLEDGMENT**

I acknowledge that on \_\_\_\_\_, 20\_\_\_\_, I received \_\_\_\_\_  
minutes of in-person training on the requirements of the Fair Housing Act.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Job Title/Position

\_\_\_\_\_  
Date



**APPENDIX D**

**FULL AND FINAL RELEASE OF CLAIMS**

In consideration for the parties' agreement to the terms of the Settlement Agreement they entered into in the case of *United States v. MSM Brothers, Inc. et al.*, No. 1:17-cv-00321-PB (D. N.H.), and in consideration for the payment of \$25,000, I, Kelsie Hoyne, do hereby fully release and forever discharge MSM Brothers, Inc. d/b/a White Cliffs at Dover and Kim Hughes (hereinafter "Defendants"), along with their insurers, co-insurers, reinsurers, attorneys, related companies, principals, predecessors, successors, assigns, affiliates, partners, directors, officers, agents, employers, shareholders, subsidiaries, employees, former employees, independent contractors, heirs, executors, and administrators and any persons acting under their respective direction or control from any and all fair housing claims set forth or 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 alleged housing discrimination that I may have had against any of them for any of Defendants' actions or statements related to those claims through the date of the entering into the Settlement Agreement.

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print Name]