

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 4:20 CV 789 CDP
)	
DUNNWOOD ACRES APARTMENTS, LLC,)	
IREMCO, INC. and SUE WOOD,)	
)	
)	
Defendants.)	
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CONSENT ORDER

I. INTRODUCTION

1. Plaintiff United States of America filed this action to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, [42 U.S.C. §§ 3601-3619](#) (“the FHA”).
2. The United States filed this action on June 17, 2020, on behalf of Donella Smith (“Ms. Smith”) and her minor children, R.E., and D.H., in accordance with 42 U.S.C. § 3612(o).¹
3. The United States’ Complaint alleges that, at all relevant times, Defendant Dunnwood Acres Apartments, LLC, owned Dunnwood Acres Apartments (“the Subject Property”), a multi-family residential rental complex consisting of approximately 193 units. The

¹ Consistent with [E.D. MO. L.R. 2.17](#), F.R.C.P. Rule 5.2, and Rule II(M)(b) of the Eastern District’s Electronic Case Filing Procedures Manual, initials are used in place of each child’s name in this Proposed Consent Order.

units are located in separate buildings at different street addresses in Hazelwood, Missouri, in the Eastern District of Missouri.

4. The Complaint further alleges that Defendant IREMCO, Inc., (“IREMCO”) operated and managed the Subject Property on behalf of Defendant Dunnwood Acres Apartments, LLC, and that IREMCO employed Defendant Sue Wood (“Ms. Wood”) as the property manager of the Subject Property. The Complaint alleges that the Defendants discriminated against Ms. Smith and her minor children, R.E., and D.H., because of R.E.’s disability by refusing grant Ms. Smith’s request for a reasonable accommodation to transfer to a unit at the Subject Property with fewer steps, in violation of [42 U.S.C. § 3604\(f\)\(2\)](#), and [\(f\)\(3\)\(B\)](#).
5. On September 30, 2019, on behalf of Ms. Smith and her minor children, R.E. and D.H. (“Aggrieved Persons”), the United States Department of Housing & Urban Development issued a Determination of Reasonable Cause and a Charge of Discrimination based upon disability in violation of 3604(f)(2)(A), 3604(f)(2)(B), and 3604(f)(3)(B) of the Act. On October 11, 2019, Ms. Smith timely elected to have the claims decided in federal court. The parties entered into tolling agreements on November 5, 2019, January 9, 2020, April 17, 2020, May 8, 2020, and May 22, 2020.
6. The parties agree that the claims against the Defendants should be resolved without further proceedings or a trial. This Consent Order resolves the claims in the Complaint against the Defendants.
7. The Defendants deny the allegations set forth in United States’ Complaint. Entering into this Consent Order does not constitute an admission of liability.

II. GENERAL INJUNCTION

8. The Defendants, their agents, their employees, and all others in active concert or participation with them, are hereby enjoined from:
- a. Discriminating in the rental of, or otherwise making unavailable or denying, a dwelling to any renter because of a disability, in violation of 42 U.S.C. § 3604(f)(1);
 - b. Discriminating against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of a disability, in violation of 42 U.S.C. § 3604(f)(2); and
 - c. Refusing to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

III. NONDISCRIMINATION POLICY

9. Dunnwood Acres Apartments, LLC and IREMCO (the “Corporate Defendants”) attest that they have posted and will continue to display in a prominent way at all properties that Dunnwood Acres Apartments, LLC owns and/or manages and at all properties that IREMCO manages signs no smaller than 11 inches by 14 inches indicating that all units are available for rental on a nondiscriminatory basis. The Corporate Defendants have provided the United States with photographs of the signs described in this paragraph. The Corporate Defendants agree to continue to display such signs in Dunnwood Acres Apartments, LLC’s leasing office; in IREMCO’s main office, and in all IREMCO rental offices; and in prominent locations on the premises of all rental properties that the

Corporate Defendants own and/or manage as required by this paragraph throughout the term of this Consent Order. 11-by-14-inch posters that comport with 24 C.F.R. Part 110, including Department of Housing and Urban Development (“HUD”) Form 928 or comparable signs, satisfy this requirement.

10. The Corporate Defendants shall ensure that all new advertising for the rental units that they own and/or manage in newspapers, in telephone directories, on radio, on television, on the internet, or in other media, and all signs, pamphlets, brochures, rental applications, leases, and other promotional literature includes 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, religion, sex, disability, familial status, or national origin.”

IV. REASONABLE ACCOMMODATION POLICY

11. Within 30 days of the entry of this Consent Order, the Corporate Defendants shall draft a specific written reasonable accommodation policy (“the Policy”) for receiving and handling requests for reasonable accommodations made by residents or prospective residents with disabilities at the Subject Property and at all other rental housing owned and/or managed by Dunnwood Acres Apartments, LLC (“the Policy”). The Policy shall comply with the requirements of [42 U.S.C. §§ 3601-3619](#) and all other applicable federal and state laws and shall include the following provisions:
 - a. A description of where and how the Corporate Defendants will accept and process oral and written requests for disability-related accommodations in rules, policies, practices, or services;

- b. A requirement that the Corporate Defendants fully document each request for a reasonable accommodation and the response thereto, and retain in their records copies of all written requests and decisions for the duration of this order;
- c. A requirement that, within 7 days of their receipt of each oral or written request for a reasonable accommodation, the Corporate Defendants shall, in writing, acknowledge receipt to each person making a request;
- d. A requirement that the Corporate Defendants notify each person requesting a reasonable accommodation in writing of the decision regarding their request within 14 days of the receiving the request.
- e. A requirement that, if the Corporate Defendants are unable to grant a reasonable accommodation as requested, before deciding to deny the request they shall engage in an interactive dialogue with the resident or prospective resident to determine whether the Corporate Defendants may be able to offer an alternate accommodation that would meet the needs of the requester;
- f. A requirement that the notification of any denial of a request include a detailed explanation of grounds for such denial;
- g. Notification that the Corporate Defendants will not impose any additional fees or costs on, or retaliate against, any person who has exercised his/her rights under the Fair Housing Act to make a reasonable accommodation request and, if applicable, to receive a reasonable accommodation; and
- h. A requirement that, in the event that a third party makes a request for a reasonable accommodation on behalf of a resident or prospective resident, the Corporate Defendants shall accept the request, inform the resident or prospective resident of

same, and provide an opportunity for the resident or prospective resident to adopt the request as his or her own under the Policy.

12. Within 30 days of the entry of this Consent Order, the Corporate Defendants shall provide a draft of the proposed Policy to counsel for the United States for approval. The United States shall respond to the Corporate Defendants' proposed Policy within 30 days of receiving it. If the United States objects to any part of the Corporate Defendants' proposal, the parties shall have 30 days from the date the United States gives notice of its objection to resolve their disagreement. If they are unable to do so, the parties shall submit the dispute to the Court for resolution.
13. The Corporate Defendants shall implement the Reasonable Accommodation Policy for Persons with Disabilities at the Subject Property and at all other rental housing owned and/or managed by Dunnwood Acres Apartments, LLC, within 14 days of approval by the United States or determination by the Court. The Corporate Defendants may amend the Policy once it has been implemented only after receiving approval from the United States, or, if the United States denies such approval, upon order of the Court.
14. The Corporate Defendants shall keep written records of each request for a reasonable accommodation until six months after the expiration of this Order. These records shall include: (a) the name, address, and telephone number of the person making the request; (b) the date on which the request was received; (c) the nature of the request; (d) whether the request was granted or denied; and (e) if the request was denied, the reason(s) for the denial.

V. MANDATORY EDUCATION AND TRAINING

15. Within 60 days of the entry of this Consent Order, the Defendants, including all employees, officers, and agents of the Corporate Defendants who have management or administrative duties with respect to the rental of housing at the Subject Property or at any other rental housing owned and/or managed by Dunnwood Acres Apartments, LLC, shall attend, at the Defendants' expense, a live or web-based training program regarding the Fair Housing Act, including in particular the FHA's prohibitions against disability discrimination. The training shall be conducted by a qualified third party, approved in advance by the United States, and unconnected to the Defendants, their employees, agents, or counsel.
16. If, during the pendency of this Consent Order, Defendant Wood ceases working at IREMCO and assumes work in the residential property management field at a company other than IREMCO before she completes the training described in Paragraph 15, she shall notify counsel for the United States of her change in employment within 10 days of ceasing work at IREMCO shall and attend a live or web-based training as required by this Section within 60 days of assuming her new employment.
17. Any new employees or agents who begin working with or for the Corporate Defendants who will perform management or administrative duties with respect to the rental of housing at the Subject Property or at any other rental housing owned and/or managed by Dunnwood Acres Apartments, LLC, will attend fair housing training within 30 days of the start of their employment. Similarly, any employee or agent of the Corporate Defendants who did not previously have management or administrative duties with respect to the rental of housing owned and/or managed by Dunnwood Acres

Apartments, LLC, but assumes such duties will attend fair housing training within 30 days of the commencement of their new duties. A live or web-based fair housing training that has been pre-approved by the United States and that is otherwise consistent with the requirements of Paragraph 15 is sufficient to satisfy the training requirement for persons described in this paragraph. The Corporate Defendants shall bear the costs associated with this training.

18. All persons required under Paragraph 15-17 to attend training shall, within 5 days of completing the training, certify that they have participated in the educational training program, and that they understand and acknowledge their duties and responsibilities under this Consent Order and the federal Fair Housing Act. Such certification shall take the form of Appendix A to this Consent Order if they received such pre-approved training in-person, or Appendix B if they completed a pre-approved web-based training.

VI. REPORTING AND RECORD KEEPING

19. The Corporate Defendants shall notify and provide documentation to the United States² of the following events within 10 days of their occurrence:
 - a. The adoption, in accordance with Part IV of this Consent Order, of the Policy;
 - b. The implementation of any change to the Policy;

² All documents, notices, communications, and other written materials required by this Consent Order to be sent to the United States shall be made by email and overnight delivery by private commercial carrier (*i.e.*, not the U.S. Postal Service). Unless the United States informs the Defendant, in writing, of an alternative address, submissions shall be addressed as follows: **Email:** lori.wagner@usdoj.gov; and **Overnight Delivery:** Attention: Chief, Housing & Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice, 4 Constitution Square, 150 M St. NE, 8th Floor, Washington, DC, 20002, Attn: DJ 175-42-178.

- c. The completion by each person of an educational program required under Paragraphs 15-17 of this Consent Order by forwarding a completed certification in the form of Appendix A or Appendix B to this Consent Order;
 - d. The posting of the Nondiscrimination Policy in accordance with Part IV of this Consent Order;
 - e. The denial of a request for a reasonable accommodation by a resident or prospective resident of housing owned and/or managed by the Corporate Defendants, including the requester's name, address, and telephone number, the date of the request, the details of the request, and the written explanation provided to the requester for denying the request; and
 - f. The making of any written or oral complaint against any of the Defendants regarding discrimination on the basis of disability, including a copy of the written complaint itself or a written summary of an oral complaint, and the name, address, and telephone number of the complainant. The Defendants shall also promptly provide the United States with information concerning resolution of each complaint.
20. The Corporate Defendants shall be responsible for sending to the United States semiannual compliance reports beginning six months after the entry of this Consent Order and continuing every six months thereafter, except that the final report shall be submitted 60 days prior to the expiration of this Consent Order. The compliance report shall include: (a) copies of all advertising for rental housing owned and/or managed by the Corporate Defendants in newspapers, in telephone directories, on radio, on television, on the internet, or in other media published since the effective date of this

Consent Order or the submission of the prior compliance report; and (b) a list of all reasonable accommodation requests submitted to the Corporate Defendants by residents, prospective residents, or third parties since the effective date of this Consent Order or the submission of the prior compliance report, including the name and contact information of the requester, the property to which the request pertained, the date of the request, the nature of the request, and whether the request was granted or denied.

21. While this Consent Order remains in effect, the Defendants shall preserve all records relating to their obligations under this Consent Order. Representatives of the United States shall be permitted, upon providing reasonable notice to the Defendants, to inspect and copy at reasonable times any and all records related to the Defendants' obligations under this Consent Order.

VII. RELIEF FOR DONELLA SMITH, R.E. and D.H.

22. Within 10 days of the entry of this Consent Order, the Defendants shall pay the total sum of \$44,000 in monetary damages as follows:
 - a. By delivering to counsel for the United States a check payable to Donella Smith for \$30,000.
 - b. By delivering to counsel for the United States a check payable to Donella Smith's daughter, R.E., an Aggrieved Person, in the amount of \$9,800, which will be held in an individual interest-bearing bank account that will be available to her upon reaching the age of majority.
 - c. By delivering to counsel for the United States a check payable to Donella Smith's daughter, D.H., an Aggrieved Person, in the amount of \$4,200, which will be held in an

individual interest-bearing bank account that will be available to her upon reaching the age of majority.

23. Within 10 days of the entry of this Consent Order, the Defendants shall take steps, including, if necessary, the filing of a formal motion, which motion may note it is being filed with Ms. Smith's consent, to request that the court vacate the consent judgment entered against Donella Smith on March 27, 2018, in the Circuit Court of St. Louis County, Missouri, Case No.: 18SL-AC04798 (the "Circuit Court Judgment").

Defendants agree to waive all amounts that they claim Ms. Smith owes to Defendants relating to her tenancy at the Subject Property, including back rent, late fees, court costs, attorney's fees, penalties, and any interest that may have accrued. In the event that the Circuit Court does not grant the motion to vacate the Circuit Court Judgment within 30 days of the date on which Defendants file it, the Defendants will file a satisfaction of judgment within 40 days of the date on which Defendants filed the motion to vacate and shall provide counsel for Plaintiff with a copy. Additionally, regardless of whether the Circuit Court judgment is vacated, within 10 days of entry of this Consent Order, the Defendants shall file a motion, and may note it is with Ms. Smith's consent, to request that the Circuit Court raise to above level three the security level of the underlying rent and possession case that resulted in the Circuit Court Judgment under the Missouri Office of State Courts Administrator's Automated System Security Guidelines. The Parties acknowledge that, notwithstanding Defendants' good-faith advocacy in their favor, the Circuit Court may not grant the motion to vacate or the request for the increased security level.

24. As a prerequisite to receiving payment pursuant to Paragraph 22, Ms. Smith shall execute and deliver to counsel for the United States a release of all claims, legal or equitable, that she may have against the Defendants relating to the claims asserted in this lawsuit. This release shall take the form of Appendix C to this Consent Order. When counsel for the United States has received the check, as required by Paragraph 22, from the Defendants and the original signed release from Ms. Smith, the United States shall deliver the check to Ms. Smith and the original signed release to counsel for Defendants.

VIII. JURISDICTION, DURATION, AND SCOPE

25. The parties stipulate, and the Court finds, that the Court has subject matter jurisdiction over this action under [28 U.S.C. §§ 1331 and 1345](#), and under [42 U.S.C. § 3612\(o\)](#).
26. This Consent Order is effective immediately upon its entry by the Court, and shall remain in effect for three years from the date of its entry.
27. The Court shall retain jurisdiction over this action and the parties thereto for the purpose of enforcing and modifying the terms of the Consent Order while the Consent Order remains in effect.
28. The United States may move the Court to extend the period in which this Consent Order is in effect if the United States believes it is likely that the Defendants violated one or more terms of the Consent Order or if the interests of justice so require to effectuate the rights and obligations arising from this Consent Order. This action and the Complaint shall be deemed dismissed with prejudice upon the expiration of this Consent Order.
29. Any time limits for performance imposed by this Consent Order may be extended by mutual written agreement of the parties.

30. The parties 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 Defendants fail to perform in a timely manner any act required by this Consent Order or act in violation of any provision of this Order, the United States may move the Court to impose any remedy authorized by law or equity, including, but not limited to an order requiring performance or non-performance of certain acts and an award of damages, costs, and reasonable attorneys' fees that may have been occasioned by the Defendants' violation or failure to perform.
31. The Defendants acknowledge that the United States may take all steps it deems necessary to monitor the Defendants' compliance with this Consent Order.
32. The Corporate Defendants' obligations under this Consent Order shall extend to all rental housing that Dunnwood Acres Apartments, LLC owns and/or manages at present and/or while this Consent Order remains in effect.
33. If, at any time before the expiration of this Consent Order, Defendant Dunnwood Acres Apartments, LLC acquires a direct or indirect management or ownership interest in any residential rental property, such property shall become subject to the applicable provisions of this Consent Order. Within 30 days of acquiring such an interest, Dunnwood Acres Apartments, LLC shall notify counsel for the United States of the nature of its interest in the dwelling or property, the address(es) of the property, and the number of individual dwelling units at the property. Dunnwood Acres Apartments, LLC shall further provide a copy of the documents memorializing the transfer in interest within three business days of completing such a transfer.

34. If, at any time before the expiration of this Consent Order, Dunnwood Acres Apartments, LLC sells or otherwise relinquishes its interest in any property subject to this Consent Order to a bona fide, independent, third-party in an arms-length transaction,³ that property shall cease to be subject to this Consent Order. For purposes of this Paragraph, a “bona fide, independent, third-party” is one in which neither the Corporate Defendants nor their officers, members, executives, managers, partners, employees, subsidiaries, affiliates, or agents has any current or past financial, contractual, personal, or familial relationship.
35. If, at any time while this Consent Order remains in effect, Defendant Dunnwood Acres Apartments, LLC maintains that its obligations under this Consent Order have terminated or changed because it has sold or transferred its interest in any property subject to this Consent Order to a bona-fide third party in an arms-length transaction, the Corporate Defendants shall inform the United States within 30 days of such transaction and provide the date of the sale or transfer, copies of the sale or transfer documents, and the name(s) and contact information for the transferee.
36. If any transfer of interest in any property subject to this Consent Order is not an arms-length transaction, Defendant Dunnwood Acres Apartments, LLC shall remain jointly and severally liable, along with the transferee, for any violations of this Consent Order.

³ For purposes of this Consent Order, “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 the Corporate Defendants, or any person related to the Corporate Defendants by corporate affiliation, are officers, members, executives, managers, partners, employees, subsidiaries, affiliates, or agents shall not be considered an arms-length transaction.

IX. COSTS OF LITIGATION

37. Except as provided for in Paragraph 30, all parties shall be responsible for their own attorney's fees and costs associated with this action.

X. TERMINATION OF LITIGATION HOLD

38. The parties agree that, as of the effective date of this Consent Order, litigation is not "reasonably foreseeable" concerning the matters described in the United States' Complaint. To the extent that any of the parties previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described in the Complaint, they are no longer required to maintain such a litigation hold. Nothing in this Paragraph relieves any of the parties of any other obligations imposed by this Consent Order.

IT IS SO ORDERED:

This 16th day of July, 2020.


HON. CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

For the United States of America:

Dated: June 17, 2020

ERIC S. DREIBAND
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For the Defendants Dunnwood Acres Apartments, LLC, IREMCO Inc., and Sue Wood

Dated: June 17, 2020

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APPENDIX A

CERTIFICATION AND ACKNOWLEDGMENT

I certify that on _____, 20 __, I received _____ minutes of in-person training on the requirements of the federal Fair Housing Act. I understand and acknowledge my duties and responsibilities under the federal Fair Housing Act and under the Consent Order entered in the case of *United States v. Dunnwood Acres Apartments, LLC, et al.*, No. 4:20 CV 789 CDP (E.D. MO.).

Signature

Name

Job Title/Position

Date

APPENDIX B

CERTIFICATION AND ACKNOWLEDGMENT

I certify that on _____, 20 ____, I received _____ minutes of web-based training on the requirements of the federal Fair Housing Act. I understand and acknowledge my duties and responsibilities under the federal Fair Housing Act and under the Consent Order entered in the case of *United States v. Dunnwood Acres Apartments, LLC, et al.*, No. 4:20 CV 789 CDP (E.D. MO.).

Signature

Name

Job Title/Position

Date

APPENDIX C

RELEASE OF CLAIMS

In consideration of the parties' agreement to the terms of the Consent Order entered in *United States v. Dunnwood Acres Apartments, LLC, et al.*, No. 4:20 CV 789 CDP (E.D. MO.) ("United States' Action"), and the Defendants' payment to me of \$30,000, and the Defendants' payment to my minor children R.E. and D. H.,⁴ of \$9,800 and \$4,200, respectively, for deposit into individual interest-bearing bank accounts that I will establish for their benefit, to be available to them upon their reaching the age of majority, I, Donella Smith, hereby release Defendants Dunnwood Acres Apartments, LLC, IREMCO, Inc., and Sue Wood (collectively, "Defendants"), and their agents, representatives, employees, affiliates, parent companies, subsidiaries, members, heirs, successors and assigns from any and all liability for any claims, legal or equitable, that I may have against them, individually or in my capacity as representative for my minor children, arising out of the claims brought in the United States' Action, or arising out of the facts underlying those claims as known on the date of the signing of this Consent Order by the parties, or from the previous rent and possession case filed against me in the Circuit Court of St. Louis County, Missouri, Associate Judge Division, bearing Case No. 18SL-AC04798. I certify that I am legally authorized to accept the monetary relief provided by the Consent Order on behalf of

R.E and D.H. Further, I waive any claims that I may have against the United States, the Department of Justice, or its agents or employees, arising out of the United States' Action. 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

⁴The full names of the minor children will be included in the final version of the release provided for signature.