

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

and

HOUSING OPPORTUNITIES MADE
EQUAL, INC.

Plaintiff-Intervenor,

v.

JOHN KLOSTERMAN and SUSAN
KLOSTERMAN,

Defendants.

CASE NO.: 1:18CV194

CONSENT DECREE

I. INTRODUCTION

I. This action was filed by the United States of America to enforce Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), 42 U.S.C. §§ 3601-3631. The United States alleges that John Klosterman, acting as an agent of Susan Klosterman, violated the Fair Housing Act ("FHA") by discriminating against tenants on the basis of sex in the rental of dwellings owned by John and Susan Klosterman, and managed by John Klosterman, in and around Cincinnati, Ohio. Specifically, the United States alleges that from at least 2013 through the present, John Klosterman subjected multiple female tenants to severe, pervasive, and unwelcome sexual harassment and retaliation, including but not limited to the following:

- a. Making unwelcome sexual comments, making unwelcome sexual advances, and sending unwanted sexual text messages and photos to female tenants;
- b. Touching female tenants on their legs and other parts of their bodies without their consent;
- c. Offering to grant tangible housing benefits—such as reducing the rent and overlooking or excusing late or unpaid rent—in exchange for sex;

- d. Taking adverse housing actions, such as eviction or refusing to make repairs, or threatening to take such actions, against female tenants who objected to and/or refused sexual advances;
- e. Expressing a preference for renting to single female tenants, and taking adverse housing actions against female tenants upon learning that they were not single; and
- f. Entering the homes of female tenants without their consent and otherwise monitoring their daily activities with cameras directed at their units and through other means.

2. The Defendants acknowledge that, if this case went to trial, the United States would introduce, *inter alia*, the following evidence: (a) sworn deposition testimony from John Klosterman that he, on multiple occasions, engaged in inappropriate sexual communications with his female tenants and prospective tenants, made comments about the physical appearances of his female tenants and prospective tenants, sent pictures of a naked male statue to his female tenants, and offered to send to his female tenants, and requested that his female tenants send to him, sexual photographs; (b) sworn deposition testimony from John Klosterman that he offered to pay an "allowance" to a female tenant in exchange for engaging in a sexual relationship with him; and (c) text messages and recordings of phone calls in which John Klosterman made sexual comments to female tenants and prospective female tenants.

3. The United States alleges that the conduct described above constitutes a pattern or practice of resistance to the full enjoyment of rights granted by the FHA and denial to a group of persons of rights granted by the FHA, which denial raises an issue of general public importance.

4. The United States further alleges that Susan Klosterman is liable for discriminatory actions and conduct committed by John Klosterman because she co-owns and co-leases these rental dwellings with John Klosterman.

5. This Court has jurisdiction over this action under 28 U.S.C. § 1331 and 42 U.S.C. § 3614(a).

ACCORDINGLY, it is hereby ADJUDGED, ORDERED and DECREED:

II. TERMS AND CONDITIONS

6. The provisions of this Consent Decree shall apply to all Defendants and their officers, agents, employees, successors and assigns, and all other persons or entities in active concert or participation with them.

7. Unless otherwise specified herein, the provisions of this Decree apply to any residential rental property that is owned or operated by any of the Defendants, or that is owned or operated by any entity of which any Defendant is an officer, agent, employee, or partner, or in which any Defendant has any ownership, financial, or control interest, whether that property is currently owned or acquired during the term of this Consent Decree.

8. This Decree is effective immediately upon its entry by the Court. For purposes of this Decree, the phrases "date of the Consent Decree" and "effective date" shall refer to the date on which the Court enters the Consent Decree.

III. GENERAL INJUNCTION – ALL DEFENDANTS

9. Defendants, their officers, agents, employees, successors and assigns, and all other persons or entities in active concert or participation with them, are enjoined, with respect to the rental of dwellings, 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 because of 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, because of sex;
- c. Making, printing, publishing, or causing to be made 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 having exercised or enjoyed, or on account of having aided and encouraged any other person in the exercise or enjoyment of, any right granted by the Fair Housing Act.

IV. INJUNCTION CONCERNING MANAGEMENT OF RESIDENTIAL RENTAL PROPERTIES

10. Defendants affirm that they do not own, lease, or control any rental properties, with the exception of properties under receivership in *City of Cincinnati v. John Klosterman, et al.*, Hamilton County C.P. Case No. A1905588 (the "Receivership").

11. If, at any time during the effective period of this Decree, either or both Defendants acquire a direct or indirect management, ownership, financial, or controlling interest in any other residential rental property (or if they maintain any such interest in any residential rental property following the Receivership), such property will be subject to the applicable provisions of this Decree. Within 30 days of acquiring such an interest (or, for any properties currently owned and retained following the Receivership, within 30 days following the termination of the Receivership), Defendants will notify counsel for the United States of the nature of their interest in the dwelling or property; the address of the property; the number of individual dwelling units at the property; and any other information required under this Decree. Defendants will further provide the United States with copies of any documents memorializing the transfer in interest of the property.

12. John Klosterman is permanently enjoined from directly or indirectly performing any property management responsibilities at any residential rental property. For purposes of this Decree, "property management responsibilities" include the following: showing or renting housing units; processing rental applications; performing or supervising repairs or maintenance; determining tenant eligibility for subsidies or waivers of fees and rents; inspecting dwelling units; collecting rent and fees; entering occupied rental units; overseeing any aspects of the rental process; or engaging in any other property-related activities that involve, or may involve, personal contact with tenants or prospective tenants.

13. Prior to obtaining an ownership interest in any future rental properties or following termination of the Receivership should Defendants retain an ownership interest in any of the current rental properties, Defendants will retain an Independent Manager, to be approved in writing by the United States, to perform all property management duties as described in Paragraph 12 at any residential rental property Defendants own, lease, or control, including subsequently-acquired properties as set forth in Paragraph 11 ("current or future rental properties"). An "Independent Manager" is an individual or entity reasonably experienced in managing rental properties and who has no current or past employment, financial, contractual, personal, or familial relationship with Defendants.

14. If, after retaining an Independent Manager, Defendants wish to change the Independent Manager for any reason, they shall submit the name of the prospective manager, in writing, to the United States for written approval at least ten (10) days prior to retaining the individual or entity, except in the event of an emergency. If there is a need to retain an Independent Manager on an emergency basis, Defendants shall submit the name of the manager, in writing, to the United States within 48 hours.

15. John Klosterman is permanently enjoined from entering any of the current or future occupied rental properties described in Paragraphs 11 and 13. This prohibition includes, but is not limited to, entry into the dwelling unit, leasing office, basement, attic, communal space, yard, parking area, and garage.

16. Defendants shall do the following through the Independent Manager for any current or future rental properties:

- a. Implement, subject to the United States' approval, 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 30 days of the purchase, lease, or assumption of control of any residential rental properties Defendants later acquired as described in Paragraph 11. This policy and procedure will be implemented within five days of notification from the United States to Defendants that the policy and procedure are satisfactory to the United States. At that time, Defendants will direct the Independent Manager to notify all new and current tenants of the policy and procedure.

- b. Ensure that any persons who will be performing any duties with respect to future rental properties are familiar with the requirements of the FHA, particularly as they pertain to sexual harassment and other forms of sex discrimination, and this Decree.
- c. Post an "Equal Housing Opportunity" sign in any rental office through which dwellings at current or future properties are rented, which indicates that all dwellings are available for rent on a nondiscriminatory basis. An 11-inch by 14-inch poster that comports with 24 C.F.R. Part 110 will satisfy this requirement. Such poster will be placed in a prominent, well-lit location where it is easily readable. Defendants may use HUD Form 928, available at: <https://portal.hud.gov/hudportal/documents/huddoc?id=928.1.pdf>.
- d. Require that all advertising conducted for any future properties in newspapers, telephone directories, radio, television, Internet websites, social media, or other media, and all billboards, signs (including at the properties), pamphlets, brochures, and other promotional literature, include either 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 will be legible and prominently placed.
- e. Send to the United States within 30 days after the effective date of this Decree, and every six months thereafter for the duration of this Decree, a list of all tenants at future properties and their addresses.
- f. Maintain all rental records kept in relation to rental properties and allow the United States to inspect and copy such records upon reasonable notice.
- g. Provide any information reasonably related to compliance with this Decree that is requested by the United States.
- h. Notify the United States in the event the Independent Manager obtains any information indicating that Defendant John Klosterman is in violation of this Consent Decree or the Fair Housing Act, including by entering the premises of any occupied property.

17. If, prior to the effective date or at any time during the effective period of this Decree, either or both Defendants sell or transfer a residential rental property to a bona fide, third-party purchaser in an arms-length transaction, such property will cease to be subject to this Decree. For purposes of this Decree, a "bona fide, independent third-party purchaser" is one with whom Defendants have no current or past financial, contractual, personal, or familial relationship. An "arms-length transaction" is one 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 corporation or entity of which either Defendant is an officer, partner, employee, or agent, or in which either Defendant has an ownership,

financial or controlling interest, is not a "bona fide, independent third-party purchaser," and any transaction involving such a purchaser will not qualify as an "arms-length transaction."

18. If at any time during the effective period of this Decree, Defendants claim that their obligations under this Decree have terminated or changed because they have sold or transferred one or more residential rental properties to a bona fide, third-party purchaser in an arms-length transaction as defined in Paragraph 17, Defendants will inform the United States within 30 days of such transaction and provide the date of the sale or transfer, copies of the documents memorializing the sale or transfer, and contact information for the subsequent purchaser.

19. If any transfer of interest in all or a portion of any residential rental property by Defendants is not an arms-length transaction as defined in Paragraph 17, Defendants will remain jointly and severally liable, along with the purchaser or transferee, for any violation of this Decree.

20. Defendants are permanently enjoined from purposefully or knowingly contacting or communicating, either directly or indirectly, with any person identified by the United States as an aggrieved person in this action, or with former or prospective tenants of Defendants' former or future rental properties. "Contact or communications" includes, but is not limited to, physical contact, verbal contact, telephone calls, e-mails, faxes, written communications, text or instant messages, contacts through social media, or other communications made through third parties.

21. In the event that either or both Defendants inadvertently or unintentionally initiates any contact with any aggrieved person, or another person initiates such contact with Defendants, Defendants will immediately discontinue the contact or communication and take all reasonable steps to avoid any further contact or communication.

V. EDUCATION AND TRAINING

22. Within 30 days of acquiring an ownership interest in any future rental property or following termination of the Receivership should Defendants retain an ownership interest in any of the current rental properties, Defendants will attend an in-person training delivered face-to-face or via video conferencing with synchronous instruction on the Fair Housing Act, including the Act's provisions related to sexual harassment, other forms of sex discrimination, and discriminatory statements. The trainer or training entity must be qualified to perform such training, must be independent of Defendants, and must be approved in advance by the United States. Defendants will bear the cost of any expenses associated with this training. Defendants will obtain from the trainer or training entity certificates of attendance signed by each individual who attended the training. The certificates shall include the name of the course, the date the course was taken, the subject matters covered in the course, and the length of the course and/or time within which the course was completed. Defendants will send a copy of these certificates to counsel for the United States within 10 business days of the training.

23. During the effective period of this Decree, all new agents or employees of Defendants, including agents or employees of the Independent Manager, who are involved in

showing, renting, managing or maintaining any residential rental properties owned, managed or operated by Defendants, and all employees or agents who supervise such persons, shall, within 30 days of commencing an employment or agency relationship with Defendants or the Independent Manager, be provided the training described in Paragraph 22, or participate in an online training on the Fair Housing Act, including the Act's provisions related to sexual harassment and other forms of sex discrimination. The online training program must be approved in advance by the United States. New employees who are provided online training will participate in an in-person training as described in Paragraph 22, within one year of commencing an employment or agency relationship with Defendants. Defendants will send a copy of the certificates of any training conducted under this paragraph to counsel for the United States within 10 business days of said training.

VI. MONETARY DAMAGES

24. Within 5 business days of the entry of the Order, the United States will provide Defendants with a list of the amounts that should be paid to each aggrieved person pursuant to Paragraph 25.

25. Within 10 business days of the notice provided by the United States in accordance with Paragraph 24, Defendants shall pay ONE HUNDRED AND FIFTY-TWO THOUSAND AND ONE HUNDRED TWENTY-FIVE DOLLARS (\$152,125.00) to the aggrieved persons listed in Appendix A, by delivering to counsel for the United States, by overnight delivery,¹ checks payable to each aggrieved person listed in Appendix A.

26. Within 10 business days of the entry of the Order, Defendants shall pay a total of SEVEN THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE DOLLARS (\$7,875.00) to Plaintiff-Intervenor Housing Opportunities Made Equal, Inc.²

27. Within one year of the effective date of this Order, Defendants shall pay a total of FIFTEEN THOUSAND DOLLARS (\$15,000.00) to compensate the aggrieved persons listed in Appendix A.

28. For the purpose of complying with Paragraph 27, within six months of the effective date of this Order, the Defendants shall establish an interest-bearing escrow account ("Escrow Account") and immediately deposit a sum of FIVE THOUSAND DOLLARS

¹ All documents, instruments, and written materials required by this Consent Order to be sent to the United States shall be sent by commercial (not by United States Postal Service) overnight delivery service, addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 150 M St. NE, 8th Floor, Washington, D.C. 20001.

² All documents, instruments, and written materials required by this Consent Order to be sent to Housing Opportunities Made Equal, Inc. shall be sent to Gerhardstein & Branch Co. LPA, Attn: Jennifer Branch, Esq., 441 Vine St., Suite 3400, Cincinnati, OH 45202.

(\$5,000).³ The Escrow Account shall be established for the sole purpose of compensating aggrieved persons. Within 5 business days of the establishment of the Escrow Account, the Defendants shall submit proof to the United States that the account has been established and the funds deposited.⁴

29. After establishment of the Escrow Account, the Defendants shall make two additional deposits, as follows: FIVE THOUSAND DOLLARS (\$5,000) within nine months of the effective date of the Order and FIVE THOUSAND DOLLARS (\$5,000) within one year of the effective date of the Order.

30. Within five business days of payment, the Defendants shall submit proof to the United States that the amounts described in Paragraph 30 were deposited into the Escrow Account.

31. Any interest accruing to the Escrow Account shall become a part of the Escrow Account and be utilized as set forth herein. However, no additional interest shall be assessed as part of the amounts owed.

32. The Defendants shall be solely responsible for any taxes assessed or owed on any interest earned on money deposited into the Escrow Account.

33. When Defendants have deposited the full amount of the FIFTEEN THOUSAND DOLLARS (\$15,000) into the Escrow Account, the United States will provide Defendants with a list of aggrieved persons and the amount of additional damages that each aggrieved person identified in Appendix A should receive. Within 10 business days of receipt of the United States' determinations, Defendants shall deliver to counsel for the United States, by overnight delivery, checks payable to each aggrieved person in the amount specified by the United States.

34. The United States reserves the right to initiate distribution of funds from the Escrow Account prior to Defendants depositing the full amount of the FIFTEEN THOUSAND DOLLARS (\$15,000) into the Escrow Account if it determines that it is in the best interest of the aggrieved persons to do so. Should that be the case, the United States will initiate a second distribution of funds once the Defendants have deposited the entire amount.

35. The Defendants agree that all disbursement determinations of the United States with respect to aggrieved persons shall be final, and Defendants hereby waive the right to contest the United States' determinations in this or any other proceeding. Defendants hereby agree that

³ Defendants are permitted to make periodic deposits in advance of the dates on which the deposits are due in accordance with Paragraphs 28 and 29 so long as the total amounts deposited are at least FIVE THOUSAND DOLLARS (\$5,000) per quarterly payment.

⁴ Compliance with Paragraphs 28, 29, and 30 may be achieved by emailing proof to the United States. Emails should be addressed to Amie Murphy, Esq., and sent to amie.murphy2@usdoj.gov. Should counsel for the United States change in any way, the United States shall provide an updated contact to Defendants.

they will not seek to interfere with or oppose the United States' determinations regarding the aggrieved persons and the appropriate amount of damages paid to each aggrieved person.

36. When counsel for the United States has received a check from the Defendants payable to an aggrieved person and a signed release in the form of Appendix B from the aggrieved person, counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to counsel for the Defendants.⁵ No aggrieved person shall be paid until she has executed and delivered to counsel for the United States the release at Appendix B.

37. The compensation required to be paid pursuant to Paragraphs 25, 27, and 29 is a debt within the meaning of 11 U.S.C. § 523(a)(6). The Defendants shall not seek to discharge any part of this debt in bankruptcy.

38. In the event that either or both Defendants, their agents, or their employees engage in any future violation(s) of the FHA, such violation(s) shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii).

VII. CIVIL PENALTY

39. Within 10 business days after the entry of this Decree, the Defendants shall make a payment of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) as a civil penalty to the United States pursuant to 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest.

VIII. COMPLIANCE

40. The United States may review compliance with this Decree at any time, including through testing of Defendants and their properties. Defendants agree to cooperate with the United States in any review of compliance with this Decree. Upon reasonable notice, Defendants will permit counsel for the United States to inspect and copy all non-privileged records pertinent to this Decree.

IX. TERMINATION OF LITIGATION HOLD

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

⁵ Upon the receipt of the final executed release of the aggrieved persons identified in Appendix A by counsel for Defendants, any future correspondence shall be sent directly to Defendants and addressed as follows: John and Susan Klosterman, 5615 Sidney Road, Cincinnati, Ohio 45238. Counsel for Defendants shall have no further obligations under this Decree upon receipt of the last-remaining release.

other obligations under this Decree, including, *inter alia*, Defendants' obligation to preserve documents under Paragraph 16.f.

X. DURATION, EXECUTION, AND OTHER TERMS

42. The Decree shall remain in effect for five years after the date of entry. The United States may move the Court to extend the period in which this Order is in effect if one or more Defendants violates one or more terms of the Decree or if the interests of justice so require.

43. Except as otherwise provided in Paragraph 46, each party shall bear its own legal or other costs incurred in connection with this matter, including the preparation, negotiation and performance of this Decree.

44. This Decree is binding on the Parties and their transferees, successors, heirs and assigns.

45. Any time limits for performance imposed by this Decree may be extended by mutual written agreement of the parties.

46. The parties to this Decree shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Decree 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 any Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Decree or otherwise to act in conformance 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 and costs reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

IT IS SO ORDERED this 1st day of October, 2020.

/s Michael R. Barrett

Michael R. Barrett
United States District Court Judge

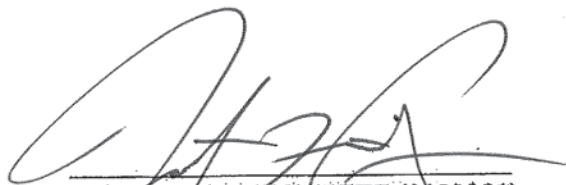
FOR THE UNITED STATES OF AMERICA:

Dated: September 28, 2020

DAVID DEVILLERS
United States Attorney
Southern District of Ohio

Respectfully submitted,

ERIC S. DREIBAND
Assistant Attorney General
Civil Rights Division



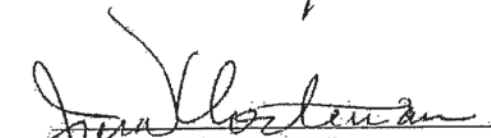
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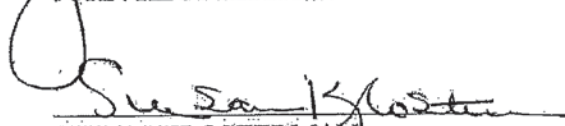
/s/ Amie S. Murphy
SAMEENA SHINA MAJEED
Chief
TIMOTHY MORAN
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KATHARINE F. TOWT
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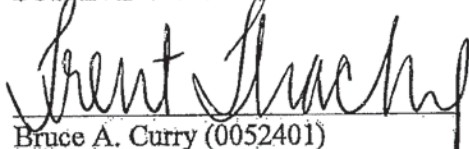
Attorneys for Plaintiff
United States of America

FOR DEFENDANTS JOHN AND SUSAN KLOSTERMAN:

Dated: 9/29/20, 2020


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SUSAN KLOSTERMAN



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Attorneys for Defendants

John Klosterman and Susan Klosterman

FOR PLAINTIFF-INTERVENOR HOUSING OPPORTUNITIES MADE EQUAL, INC.:



JENIECE JONES
Executive Director
Housing Opportunities Made Equal, Inc.

Dated: 9/30/, 2020



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Attorneys for Plaintiff-Intervenor
Housing Opportunities Made Equal, Inc.

Appendix A

1. "AOA"
2. Sandra Anderson
3. Mahogany Beasley
4. Terri Bowman
5. Stephanie Brady
6. Rhonda Ferrell
7. Annette Harris
8. Delaine Henderson Pitts
9. Therashia Jones
10. Ashley Julius
11. Felicia McMullen
12. Alicia McNeal
13. Sara Schmidt
14. Cindy Smith
15. Dimanise Wales
16. LaShawna Wales
17. Ti-Niesh Wales
18. Denise Williams
19. Jasmine Williams
20. Rachel Young

Appendix B
Release of Claims

In consideration for and contingent upon the payment to me of \$_____, plus interest if any has accrued from an escrow account, pursuant to the Consent Decree entered into in United States v. John and Susan Klosterman, No. 1:18CV194 (S.D. Ohio), I hereby release and forever discharge John and Susan Klosterman from any and all claims, legal or equitable, that I have or may have had against them arising out of the facts and circumstances of the action named above as of the entry of the Decree. I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

Executed this _____ day of _____, 202__.

Signature

Print Name

STATE OF _____)

COUNTY OF _____)

On this _____ day of _____, 202__, I witnessed the above signature of _____, who executed this agreement of her own will and deed.

NOTARY PUBLIC

My Commission Expires: _____