

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 CHRISTOPHER MIZERNY, in his capacity)
 and on behalf of his minor daughter, J.M.,)
)
 Intervenor Plaintiff,)
)
 v.)
)
 MOHAMED BACCHUS and)
 ALAN ZANDER,)
)
 Defendants.)
)
 _____)

Case No. 2:21-cv-3681

CONSENT ORDER

1. The United States initiated this action on August 18, 2021, to enforce the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*, on behalf of Christopher Mizerny (“Mizerny”) and his minor daughter, J.M., under 42 U.S.C. § 3612(o).

2. In its complaint the United States alleges that Mohamed Bacchus and Alan Zander (“Defendants”) discriminated on the basis of disability and familial status in violation of the Fair Housing Act with respect to a residential property located at 908-1 Juniper Street in Quakertown, Pennsylvania (the “subject property”), which Bacchus owned and Zander allegedly managed on Bacchus’s behalf. Mizerny rented a unit at the subject property and resided there with J.M.

3. Specifically, the United States alleges that Defendants refused to allow Mizerny’s girlfriend, who was pregnant with and gave birth to his child, and her daughter to move into Mizerny’s rental unit, threatened to evict Mizerny, and sent Mizerny a lease termination letter because of the pregnancy and Mizerny’s disability (alcohol use disorder), in violation of 42

U.S.C. §§ 3604(a)-(b) and (f)(1)-(f)(2); blocked Mizerny's number, monitored Mizerny, and conditioned his remaining at the subject property on his paying additional rent because of his disability and familial status, in violation of 42 U.S.C. §§ 3604(b) and (f)(2); made statements indicating a preference against people expecting children and recovering from addiction from renting the subject property, in violation of 42 U.S.C. § 3604(c); and interfered with Mizerny because he exercised his fair housing rights, in violation of 42 U.S.C. § 3617.

4. On October 15, 2021, Mizerny and his minor daughter, J.M. (together, "Intervenors") intervened in the lawsuit.

5. Defendant Zander represents that he is no longer involved in the rental or management of residential units owned by him or others ("residential rental business"). Defendant Zander does not presently intend to re-enter the residential rental business.

6. The United States, Intervenors, and Defendants (collectively, the "parties") agree that this Court has jurisdiction over the subject matter of this case under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 42 U.S.C. § 3612(o).

7. In an effort to avoid costly litigation, the parties have voluntarily agreed, as indicated by the signatures below, to resolve the United States' and Intervenors' claims against Defendants without the necessity of a hearing on the merits and without admission of liability on the part of Defendants.

Therefore, it is **ADJUDGED, ORDERED** and **DECREED**:

INJUNCTION

8. Defendants, their agents, employees, and all other persons in active concert or participation with them, are hereby enjoined from:

- a. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of familial status or disability, in violation of 42 U.S.C. §§ 3604(a) or (f)(1);
- b. Discriminating against persons in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of familial status or disability, in violation of 42 U.S.C. §§ 3604(b) or (f)(2);
- c. Making, printing, or publishing any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status or disability, in violation of 42 U.S.C. § 3604(c); and
- d. Coercing, intimidating, threatening, or interfering with persons in the exercise of or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act, in violation of 42 U.S.C. § 3617.

SPRINGING INJUNCTION FOR DEFENDANT ZANDER

9. For the term of this Consent Order, in the event that Defendant Zander reenters the residential rental business, Defendant Zander shall notify the Department of Justice within fifteen (15) days of reentering the residential rental business. In such event, the provisions for relief set forth in Paragraphs 10, 15-17, below, shall apply to Defendant Zander and his employees, agents, and any other persons involved in the rental or management of units owned or managed by him, in the same manner as those provisions apply to Defendant Bacchus.

MANDATORY EDUCATION AND TRAINING

10. Within forty-five (45) days of the entry of this Consent Order, Defendant Bacchus and his employees, agents, and any other persons involved in the rental or management of units owned or managed by him, shall attend live training on the Fair Housing Act, including on its familial status and disability discrimination provisions. Live training may include training in-person or by video communication platform (e.g. zoom). The training(s) shall be conducted consistent with the following:

- a. The trainer or training entity shall be independent of Defendant Bacchus, his employees, agents, or counsel; qualified to conduct such training; and approved in advance by the United States;
- b. Defendant Bacchus shall submit to the United States the name and contact information of the person or organization proposed to provide the training no fewer than fourteen (14) days before the training date;
- c. Each individual who receives the training shall execute the Certificate of Training, attached hereto as Attachment A; and
- d. Any expenses associated with the training shall be borne by Defendant Bacchus.

11. No later than fourteen (14) days after the date of entry of this Consent Order, each Defendant shall apprise his current employees, agents, and any other persons involved in the rental or management of units owned or managed by that Defendant of their obligations under this Consent Order, including those under the Fair Housing Act, 42 U.S.C. §§ 3601-3631. Each Defendant shall furnish his employees, agents, or other persons with a copy of this Consent Order. Each employee, agent, or other person covered by this Paragraph shall sign a statement in the form of Attachment B acknowledging that he or she has received, read, and understands this

Consent Order, and declaring that he or she will perform his or her duties in accordance with this Consent Order and the Fair Housing Act, 42 U.S.C. §§ 3601-3631.

12. During the term of this Consent Order, each new employee, agent, or other person who becomes involved in the rental or management of units owned or managed by either Defendant shall (a) be apprised of the contents of this Consent Order and of their obligations under the Fair Housing Act, 42 U.S.C. §§ 3601-3631, when their employment or agency commences; (b) be provided with a copy of this Consent Order; (c) be provided with a copy of the Nondiscrimination Policy and Complaint Procedure described in Paragraphs 15-17; and (d) execute the statement contained in Attachment B no later than five (5) days following their first day of employment or the first day on which they become involved in the rental or management of either Defendant's property.

NONDISCRIMINATION POLICIES

13. Within thirty (30) days of the date of entry of this Consent Order and throughout its term, each Defendant shall post and prominently display within any location used as a rental office for rental units that he owns or manages signs no smaller than ten (10) inches by fourteen (14) inches indicating that all units are available for sale or rental on a nondiscriminatory basis. A poster that comports with 24 C.F.R. § 110 will satisfy this requirement. Defendants may use HUD Form 928, available in English at: <https://www.hud.gov/sites/documents/928.1.PDF>.

14. Throughout the term of this Consent Order, each Defendant shall comply with HUD advertising guidelines, available at: <https://www.hud.gov/sites/dfiles/FHEO/documents/BBE%20Part%20109%20Fair%20Housing%20Advertising.pdf>. Consistent with such guidelines, each Defendant shall ensure that any new advertising for any rental unit owned or managed by him that is placed in newspapers, in

telephone directories, on radio, on television, on the internet, or in other media, and any signs, pamphlets, brochures, or other promotional literature, include (a) a fair housing logo and (b) 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, national origin, religion, sex, familial status or disability.

15. Within thirty (30) days of the date of entry of this Consent Order, Defendant Bacchus shall submit for approval to the United States a proposed Nondiscrimination Policy and Complaint Procedure.

16. Within fourteen (14) days of the United States’ approval of the proposed Nondiscrimination Policy and Complaint Procedure, Defendant Bacchus shall adopt and implement the Nondiscrimination Policy and Complaint Procedure and provide a copy to all residents, and all employees, agents, and any other persons involved in the rental or management, of the rental units owned or managed by that Defendant.

17. During the term of this Consent Order, Defendant Bacchus shall provide a copy of the Nondiscrimination Policy and Complaint Procedure to each new tenant that moves into a unit that is owned or managed by him at the same time the tenant is provided with a lease.

REPORTING AND RECORD KEEPING

18. Within ninety (90) days of the entry of this Consent Order, and every six (6) months thereafter to reflect information from the preceding six-month period, each Defendant shall

submit to counsel for the United States a compliance report (“the Compliance Report”).¹ A final Compliance Report shall be submitted sixty (60) days prior to this Order’s expiration. The Compliance Report shall include:

- a. Copies of signed training certifications, as required by Paragraph 10.
- b. Copies of signed acknowledgments, as required by Paragraphs 11 and 12.
- c. Photographs showing the posted nondiscrimination policies, as required by Paragraph 13.
- d. Copies of any new advertising for the rental units owned or managed by the Defendant, as required by Paragraph 14.
- e. Proof or attestation of transmission of the Nondiscrimination Policy and Complaint Procedure, as required by Paragraphs 16 and 17.
- f. Notification of any purchase, inheritance, acquisition, sale, transfer, disposition, or other change in the Defendant’s ownership or management interest in any residential rental property, including the identity of the purchaser(s) to whom the interest is being transferred.
- g. Information related to any written or oral complaint against the Defendant, or against any of the Defendant’s employees, agents, or any other persons involved in the rental or management of units owned or managed by the Defendant,

¹ Unless specified otherwise, any notifications, communications, correspondence, or provisions of documents to the United States required under this Consent Order shall be made by e-mail and overnight delivery to the following:

Abigail Marshak, Trial Attorney
Attn: DJ 175-62-413
Housing and Civil Enforcement Section, Civil Rights Division
United States Department of Justice
150 M Street, NE
Washington, D.C., 20002
(202) 514-1968
Abigail.Marshak@usdoj.gov

regarding alleged discrimination. At minimum, this information should include a copy of the written complaint itself or a written summary of any oral complaint, and the name, address, and telephone number of the complainant. The Defendant shall also promptly provide the United States with information concerning resolution of the complaint.

- h. Information related to any denial of housing to any prospective tenants with disabilities, with children under the age of eighteen (18), or who are pregnant or are expecting a child; any decision not to renew the lease of any tenants with disabilities, with children under the age of eighteen (18), or who are pregnant or are expecting a child; or any termination, including by eviction, of the lease of any tenants with disabilities, with children under the age of eighteen (18), or who are pregnant or are expecting a child. At minimum, this information should include the name, address, and telephone phone number of the tenant or prospective tenant and the reason for the action (i.e., denial of housing, decision not to renew, or termination of lease).

19. During the duration of this Order, 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 a Defendant, to inspect and copy at reasonable times any and all records related to the Defendant's obligations under this Order.

RELIEF FOR CHRISTOPHER MIZERNY AND J.M.

20. No later than thirty (30) days after the date of entry of this Consent Order, Defendants shall pay the total sum of seventy-five thousand dollars (\$75,000) in monetary damages to

Mizerny on behalf of himself and his daughter, J.M., by delivering one check payable to “Abara Law Firm, PLLC care of Christopher Mizerny” to:

Abara Law Firm, PLLC
1950 Butler Pike, #255
Conshohocken, PA 19425

21. The compensation required to be paid under this Section is a debt within the meaning of 11 U.S.C. § 523(a)(6). Accordingly, Defendants will not seek to discharge any part of this debt in bankruptcy.

22. As a prerequisite to receiving such payment, Mizerny shall, on behalf of himself and J.M., execute and deliver to counsel for the United States a release of all claims, legal or equitable, that he and J.M. may have against Defendants relating to the claims asserted in this lawsuit. Such release shall take the form of Attachment C. Counsel for the United States shall deliver a copy of the executed release form to counsel for Defendants.

23. The compensation paid and release of claims to J.M. under this Section is specifically approved under Rule 41.2 (a)-(c) of the Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania.

DURATION, MODIFICATION, AND ENFORCEMENT

24. This Consent Order is effective immediately upon its entry by the Court and shall remain in effect for three (3) years from the date of entry.

25. This Court shall retain jurisdiction over this action for all purposes related to the enforcement of this Order throughout its term, after which the case shall be dismissed with prejudice.

26. The United States and Defendants agree that in the event either Defendant engages in any future violation of the Fair Housing Act, such violation will constitute a “subsequent

violation” under 42 U.S.C. § 3614(d)(1)(C)(ii). This provision applies to any future violation, whether resolved voluntarily or through judicial proceedings.

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

28. The United States may move the Court to extend the period in which this Order is in effect if it believes that any Defendant has likely violated one or more terms of this Order or if the interests of justice otherwise require an extension.

29. The parties to this Order shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event that a Defendant, whether willful or otherwise, fails to perform in a timely manner any act required by this Order or acts 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 attorney’s fees that may have been occasioned by the Defendant’s violation or failure to perform.

30. The United States may take reasonable steps to monitor Defendants’ compliance with this Consent Order and the Fair Housing Act, including but not limited to conducting fair housing tests at any location(s) in which either Defendant or their employees or agents conduct rental activities. Fair housing testing refers to the use of individuals who, without any bona fide intent to rent a home, apartment, or other dwelling, pose as prospective renters for the purpose of gathering information.

COSTS OF LITIGATION

31. All parties shall be responsible for their own attorney's fees, expenses, and costs associated with this action.

TERMINATION OF LITIGATION HOLD

32. The parties agree that, as of the date of the entry of this Order, litigation is not "reasonably foreseeable" concerning the matters described in Paragraphs 1-3. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in Paragraphs 1-3, the party is no longer required to maintain such a litigation hold. Nothing in this Paragraph relieves either party of any other obligations imposed by this Consent Order.

IT IS SO ORDERED:

This 1st day of February 2022.

s/ANITA B. BRODY, J.
ANITA B. BRODY, J.
United States District Court Judge

The undersigned hereby apply for and consent to the entry of this Consent Order:

On January 31, 2022, for the United States:

MERRICK B. GARLAND
Attorney General

JENNIFER ARBITTIER WILLIAMS
United States Attorney
Eastern District of Pennsylvania

KRISTEN CLARKE
Assistant Attorney General
Civil Rights Division

GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

SAMEENA SHINA MAJEED
Chief

CHARLENE KELLER FULLMER
Assistant United States Attorney
Deputy Chief, Civil Division

MEGAN K. WHYTE DE VASQUEZ
Acting Deputy Chief

/s/ Judith Amorosa
JUDITH A.K. AMOROSA
Assistant United States Attorney
United States Attorney's Office
Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
Phone: (215) 861-8869
Facsimile: (215) 861-8618
Judith.Amorosa@usdoj.gov

/s/ Abigail Marshak
ABIGAIL B. MARSHAK (NY 5350053)
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
150 M Street, NE
Washington, DC 20530
Phone: (202) 514-1968
Facsimile: (202) 514-1116
Abigail.Marshak@usdoj.gov

On January 31, 2022, for Christopher Mizerny and his minor daughter, J.M.

/s/ with consent of Udunna Abara
Udunna C. Abara
Abara Law Firm, LLC
333 E. Lancaster Ave #102
Wynnewood, PA 19096
uabara@abaralaw.com

On January 31, 2022, for Defendant Mohamed Bacchus:

/s/ with consent of Adam Barsky

Adam Barsky
Katz Barsky, LLC
100 S. Broad Street, Suite 1205
Philadelphia, PA 19110

On January 31, 2022, for Defendant Alan Zander:

/s/ with consent of Paul Fellman

Paul Fellman
Gibson & Perkins, P.C.
100 W. 6th Street, Suite 204
Media, PA 19063

ATTACHMENT A
Training Acknowledgment

I acknowledge that on _____, 20____, I received _____
minutes of live training from _____ on the requirements of the Fair
Housing Act.

(Signature)

(Printed name)

(Title)

(Date)

ATTACHMENT B
Certification of Receipt of Consent Order

I certify that I have received a copy of the Consent Order entered by the United States District Court in *United States et al. v. Mohamed Bacchus, et al.*, Case No. 2:21-cv-3681 (E.D. Pa.). I further certify that I have read and understand the Order and that any questions I had concerning the Order were answered. I understand my responsibilities as set forth in these documents and shall comply with those responsibilities.

(Signature)

(Printed name)

(Title)

(Date)

ATTACHMENT C
Release of Claims

In consideration for the parties' agreement to the terms of the Consent Order entered in *United States et al. v. Mohamed Bacchus, et al.*, Case No. 2:21-cv-3681 (E.D. Pa.) and of the payment of the sum of \$75,000 to us under that Consent Order, I hereby release the Defendants named in this action from any and all liability for any and all claims under the Fair Housing Act, legal or equitable, that I and my daughter, J.M., may have against them arising out of the issues alleged in the 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

Christopher Mizerny

Printed Name

Date

Signature

J.M., a minor, by her parent and natural guardian, Christopher Mizerny

Printed Name

Date