

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	
TERRI ANDERSON, ENJOLI)	Civil No. 04-940 (DWF-JJG)
ROSAS, and AMEENAH HILL,)	
)	
Plaintiffs,)	
)	
v.)	
)	
RONALD J. BATHRICK,)	
)	
Defendant.)	
_____)	

CONSENT ORDER

I. INTRODUCTION

1. This action was filed by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968 (hereinafter “Fair Housing Act”), as amended by the Fair Housing Act Amendments of 1988, 42 U.S.C. §§ 3601 - 3619. The United States alleges that Defendant Ronald J. Bathrick (hereinafter “Defendant”) engaged in a pattern or practice of discrimination on the basis of sex, and/or denied the rights granted by the Fair Housing Act to a group of persons and such denial raises an issue of general public importance, all in violation of 42 U.S.C. § 3614.
2. In its complaint, the United States alleges that Defendant engaged in a pattern or practice of discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment, in the rental of dwelling units he owned, co-owned and/or managed in and around Hastings, Minnesota.
3. Specifically, the United States alleges that Defendant’s conduct has included, but is not

limited to, unwanted verbal sexual advances; unwanted sexual touching; conditioning the terms and conditions of women's tenancy on the granting of sexual favors; entering the apartment of female tenants without permission or notice; and the making of statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on sex, all in violation of 42 U.S.C. §§ 3604 (b) and (c). The United States alleges that this conduct resulted in the denial of housing to some female tenants, in violation of 42 U.S.C. § 3604(a). The United States also alleges that Defendant engaged in coercion, intimidation, threats, or interference with female tenants in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights under the Fair Housing Act, in violation of 42 U.S.C. § 3617.

4. Three women had also filed separate lawsuits against Defendant alleging that he had sexually harassed them in violation of the Fair Housing Act. Anderson v. Bathrick, Civil No. 04-940; Rosas v. Bathrick, Civil No. 04-4381; and Hill v. Bathrick, Civil No. 04-4733. All four lawsuits have been consolidated in this one action.
5. Defendant has answered the consolidated Complaint by denying each and every accusation of sexual harassment or discrimination on the basis of sex.
6. All parties have agreed that in order to avoid protracted and costly litigation over damages, this controversy should be resolved without a trial. Therefore, the parties consent to the entry of this Consent Order.

II. SCOPE AND TERM OF CONSENT ORDER

7. The provisions of this Consent Order shall apply to Defendant, his employees, agents, assigns, successors-in-interest, and all persons in active concert or participation with any

of them.

8. This Consent Order is effective immediately upon its entry by the Court. For purposes of this Consent Order, the phrases "date of this Consent Order" and "effective date" shall refer to the date on which the Court enters the Consent Order.
9. This Consent Order shall be in effect for a period of five (5) years from the effective date.

III. INJUNCTION

10. It is hereby ORDERED, ADJUDGED AND AGREED that Defendant, his agents, employees, successors, and all persons currently in active concert or participation with them, are hereby enjoined 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, printed, or published 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 her having exercised or enjoyed, or on account of her having aided and encouraged any other person in the exercise or enjoyment of, any right granted by 42 U.S.C. §§ 3603–3606.

11. For the term of this Consent Order, Defendant shall retain an independent management company, which may include an independent individual, approved by the United States (hereinafter "Management Company"), to manage the rental of any and all residential rental properties in which Defendant currently has direct or indirect ownership, management, or other financial interest, or any and all residential rental properties in which Defendant may acquire a direct or indirect ownership, management, or other financial interest (hereinafter "Subject Properties"). A current list of Defendant's residential rental properties is attached to this Consent Order as Attachment A.
12. Defendant shall retain the Management Company within thirty (30) days of the date of this Consent Order and shall continue to retain such company for the duration of this Consent Order. This requirement shall be in effect during any and all such times during the duration of this Consent Order in which Defendant has a direct or indirect ownership, management, or other financial interest in any dwelling unit. If after retaining the Management Company, Defendant wishes to change to another independent management company, Defendant may do so, provided that any such subsequent management company must also be approved in advance by the United States and comply with the requirements for the Management Company as described in this Consent Order.
13. The Management Company shall be responsible for all aspects of management of the Subject Properties that are rented or available for rent, including showing and renting units, making repairs, collecting rents, determining whom to rent to and/or evict, and all other aspects of the rental process.
14. Defendant shall refrain from entering the premises of the Subject Properties except that

Consent Order: *United States v. Bathrick*

he may do so, when accompanied by a representative of the Management Company, when it is necessary for him to inspect the property or show it to a prospective buyer, but only if that function cannot be reasonably delegated to an agent. However, in exigent circumstances requiring immediate aid or action, Defendant may enter the premises unaccompanied for the period of the exigency.

15. For the duration of this Consent Order that Defendant is required to retain the Management Company, Defendant shall require the Management Company to do the following:
 - 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 thirty (30) days of the date of this Consent Order. This policy and procedure shall be implemented within fifteen (15) days of the date of its receipt by counsel for the United States if it is satisfactory to the United States, and at that time the Management Company shall notify all new and current tenants at the Subject Properties of the policy and procedure.
 - b. The Management Company shall ensure that all of its employees who will be performing any duties in relation to the Subject Properties are familiar with the requirements of the Fair Housing Act, particularly as they pertain to sex discrimination and sexual harassment.
 - c. Post an "Equal Housing Opportunity" sign in any rental office through which the Subject Properties are rented, which sign indicates that all apartments are available for rent on a nondiscriminatory basis. An 11-inch-by-14-inch poster

substantially equivalent to the reduced sample appended to this Consent Order as Attachment B will satisfy this requirement. Such poster shall be placed in a prominent, well-lit, and easily-readable location.

- d. Require that all advertising conducted for any of the Subject Properties in newspapers, telephone directories, radio, television or other media, and all billboards, signs (including at the entrance to the property), 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 should be legible and prominently placed.

- e. Send to the United States every six (6) months, a list of all tenants at the Subject Properties and their telephone numbers.
 - f. Maintain all rental records kept in relation to the rental of the Subject Properties, and allow the United States to inspect and copy all such records upon reasonable notice.
 - g. Notify the United States in the event it obtains any information alleging or otherwise indicating that Defendant is in violation of this Consent Order.
 - h. Provide any information reasonably related to compliance with this Consent Order that is requested by the United States.
16. Defendant shall report to the United States in the event that he purchases, inherits, or

otherwise acquires an interest in any real estate property, or sells, transfers or otherwise disposes of any interest in any real estate property. Such written notification¹ shall be made within thirty (30) days of the date of such purchase, inheritance, acquisition, sale, or transfer of interest and shall include the identity of the potential purchaser(s) or person(s) to whom the interest is being transferred.

IV. MONETARY DAMAGES TO AGGRIEVED PERSONS

17. Defendant shall pay a total of THREE HUNDRED AND SIXTY THOUSAND DOLLARS (\$360,000.00) in monetary damages to persons whom the United States has identified as aggrieved persons, including plaintiffs Terri Anderson, Enjoli Rosas, and Ameenah Hill (hereinafter “identified aggrieved persons”). Payments under this Paragraph shall be made payable to the lawyers trust account administered by the law firm Ritter & Fenske, Ltd. and shall be made pursuant to the payment schedule set out in paragraphs a-c below.
 - a. Within 10 days from the date of this Consent Order, Defendant shall pay TWENTY THOUSAND DOLLARS (\$20,000) for the purpose of compensating aggrieved persons (the “First Installment Payment”) in the manner set forth in Attachment C.
 - b. Within 12 months from the date of this Consent Order, Defendant shall pay ONE

¹ Unless otherwise specified, all documents or other communications required by this Consent Order to be sent to counsel for the United States shall be addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-39-95, United States Department of Justice, 950 Pennsylvania Avenue N.W.- G St., Washington, D.C. 20530, or as otherwise directed by the United States. If the Consent Order requires transmission by facsimile, the communication shall also be sent via facsimile to (202) 514-1116.

HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$125,000) for the purpose of compensating aggrieved persons (the “Second Installment Payment”) in the manner set forth in Attachment C.

- c. Within 10 days of the successful closing of Defendant’s property in Inver Grove Heights,² or within 20 months from the date of this Consent Order, whichever date is earlier, Defendant shall pay TWO HUNDRED FIFTEEN THOUSAND DOLLARS (\$215,000) for the purpose of compensating aggrieved persons (the “Third Installment Payment”) in the manner set forth in Attachment C.

18. Defendant shall pay interest, which shall accrue per annum at the legal rate set forth in 28 U.S.C. § 1961 on any amount under the Order under paragraphs 17 and 20 that is outstanding after 12 months from the date of this Consent Order. The accrued interest shall be paid to the United States and shall be due on the date the amount owed for the Third Installment Payment is paid in full. The payment of the accrued interest shall be delivered to counsel for the United States, via overnight mail, in the form of a cashier’s check payable to the “United States Treasury.”³
19. Upon receipt of any payment from the funds paid by Defendant pursuant to paragraph 17, each of the aggrieved persons, with the exception of the private plaintiffs, shall sign and deliver to counsel for the United States the release at Attachment E, and the private

² This property is described more completely at Attachment D.

³ The overnight mail enclosing the check shall be addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-39-95, United States Department of Justice, 1800 G Street, NW, Washington, D.C. 20006.

plaintiffs shall sign and deliver to counsel for the private plaintiffs the release at Attachment F.

V. CIVIL PENALTY

20. Within 10 days of the successful closing of the Inver Grove Heights property, or within 20 months from the date of this Consent Order, whichever date is earlier, Defendant shall pay the sum of FORTY THOUSAND DOLLARS (\$40,000) to the United States as a civil penalty to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C). This payment shall be delivered to counsel for the United States in the form of a cashier's check payable to the "United States Treasury."⁴
21. In the event that Defendant or his agents or employees engage in any future violation(s) of the Fair Housing Act, such violation(s) shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d).

VI. LIS PENDENS

22. A lis pendens shall be placed by the United States on each of Defendant's properties listed in Attachment G, and on any property, other than Defendant's personal residence, that Defendant acquires an ownership interest, in whole or part, during the term of this Consent Order. The United States agrees to cooperate with any sale of a property listed in Attachment G by releasing its lis pendens interest at closing upon receipt of the full amount owed by Defendant under this Consent Order, or upon payment of net sale proceeds (gross sale price less sale related expenses) if net sale proceeds are less than the

⁴ See fn.3, *supra*.

full amount owed by Defendant under this Consent Order. In the event net sale proceeds shall be insufficient to satisfy the claims of the United States and private plaintiffs under this Consent Order, release of the lis pendens shall not act to satisfy the claims of the United States and private plaintiffs, and Defendant shall remain fully liable for the amount left due and owing under this Consent Order until the obligation is paid.⁵

VII. JUDGMENT PENALTY AND LIQUIDATED DAMAGES

23. If Defendant fails to make any installment payment within the time or in the amounts set forth in paragraphs 17a-c, fails to pay the interest within the time or in the amount set forth in paragraph 18, or fails to pay the civil penalty within the time or in the amount set forth in paragraph 20, a judgment shall be entered immediately, without further notice or hearing, against Defendant in the aggregate amount of the following:
- a. the outstanding balance owed under the terms of paragraphs 17, 18, and 20 of this Order; and
 - b. ONE HUNDRED THOUSAND DOLLARS (\$100,000) in total liquidated damages, SEVENTY-FIVE THOUSAND DOLLARS (\$75,000) payable to the United States and TWENTY-FIVE THOUSAND DOLLARS (\$25,000) payable to the lawyers trust account administered by the law firm Ritter & Fenske, Ltd. for distribution for the benefit of the private plaintiffs and their attorney.

⁵ All inquiries concerning the lis pendens shall be directed to Cindy Loken, Supervisory Paralegal, United States Attorney's Office for the District of Minnesota, 600 U.S. Courthouse 300 South Fourth Street, Minneapolis, MN 55415, telephone: (612) 664-5637.

24. If judgment is entered pursuant to paragraph 23, the judgment will accrue post-judgment interest at the legal rate and in the manner set forth in 28 U.S.C. § 1961, and the parties agree that the United States and the private plaintiffs are entitled to enforce collection of that judgment by all legal means available, including, but not limited to, filing liens against Defendant's non-exempt real and personal property, garnisheeing Defendant's wages and bank accounts, and levying against Defendant's non-exempt real and personal property.

**VIII. MODIFICATIONS, ATTORNEYS FEES AND COSTS,
AND REMEDIES FOR NON-COMPLIANCE**

25. Any time limits for performance imposed by this Consent Order may be extended by mutual, written agreement of the parties. The other provisions of this Consent Order may be modified by written agreement of the parties or by motion to the Court. If the modification is by written agreement of the parties, then such modification will be effective within thirty (30) days of the date of the filing of the written agreement with the Court, and shall remain in effect for the duration of the Consent Order or until such time as the Court indicates through written order that it has not approved the modification.
26. All parties shall be responsible for their own attorney's fees and court costs, except as provided for in paragraph 27 below.
27. The parties to this Consent Order 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 United States

contends that there has been a failure by Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Consent Order or otherwise to comply 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, costs, and attorney's fees which may have been occasioned by the Defendant's violation or failure to perform.

IX. DISMISSAL

28. The Court shall retain jurisdiction for the duration of this Consent Order to enforce the terms of the Consent Order, after which time this case shall be dismissed with prejudice. The United States may move the Court to extend the duration of the Consent Order in the interests of justice.

IT IS SO ORDERED:

This 23rd day of August, 2007.

s/Donovan W. Frank
UNITED STATES DISTRICT JUDGE

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

For the United States:

/s/ Greg Brooker
GREG BROOKER
Assistant United States Attorney
300 South 4th Street
600 U.S. Courthouse
Minneapolis, MN 55415
Tel.: (612) 664-5689
Fax: (612) 664-5787

/s/ Ryan G. Lee
STEVEN H. ROSENBAUM
Chief
REBECCA B. BOND
Deputy Chief
BURTIS M. DOUGHERTY
RYAN G. LEE
Trial Attorneys
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. G St.
Washington, DC 20530
Tel.: (202) 305-3109
Fax: (202) 514-1116
Burtis.m.dougherty@usdoj.gov
Ryan.lee@usdoj.gov

Consent Order: *United States v. Bathrick*

For Plaintiffs Terri Anderson,
Enjoli Rosas, and Ameenah Hill:

/s/ Jerome A. Ritter
Jerome A. Ritter
Ritter & Fenske
461 University Avenue
St. Paul, MN 55103
Tel: (651) 222-6700
Fax: (651) 222-1263
ritterfenske@popp.net

For Plaintiff Enjoli Rosas:

/s/ Laura K. Jelinek
Laura K. Jelinek
Southern MN Regional Legal Services
166 East 4th Street, Suite 200
St. Paul, MN 55101
Tel: (651) 222-6853
Fax: (651) 297-6457
laura.jelinek@smrls.org

For Defendant Ronald J. Bathrick:

/s/ Ronald J. Bathrick

Ronald J. Bathrick

/s/ Paul Rogosheske

Paul Rogosheske

Thuet Pugh Rogosheske & Atkins, Ltd.

222 Grand Ave W Ste 100

South St Paul, MN 55075

Tel: (651) 451-6411

Fax: (651) 451-9956

progolaw@aol.com

Consent Order: *United States v. Bathrick*

ATTACHMENT A

List of Residential Rental Properties

1. 108 East 4th Street, Hastings, Minnesota
2. 507 & 507½ West 7th Street, Hastings, Minnesota

ATTACHMENT B

Fair Housing Poster



EQUAL HOUSING
OPPORTUNITY

We do Business in Accordance With the
Fair Housing Act
(The Civil Rights Act of 1968, as amended by
the Fair Housing Amendments Act of 1988)

IT IS ILLEGAL TO DISCRIMINATE AGAINST
ANY PERSON BECAUSE OF RACE,
COLOR, RELIGION, SEX, HANDICAP,
FAMILIAL STATUS (HAVING ONE OR
MORE CHILDREN), OR NATIONAL ORIGIN

- .In the sale or rental of housing or residential lots.
- .In advertising the sale or rental of housing.
- .In the financing of housing.
- .In the appraisal of housing.
- .In the provision of real estate brokerage services.
- .Blockbusting is also illegal.

Anyone who feels he or she has been discriminated against should send a complaint to:

U.S. Department of Housing and Urban Development
Assistant Secretary for Fair Housing and Equal Opportunity
Washington, DC 20410
or

HUD Region or Area Office

ATTACHMENT C

Pursuant to Paragraph 17(a) of the Consent Order, within 10 days from the entry of this Order, Defendant Ronald Bathrick shall deposit \$20,000 in an escrow account administered by the law firm Ritter & Fenske, Ltd. This amount is for the purpose of compensating the allegedly aggrieved persons and shall be distributed in the following manner: Within seven (7) business days of receipt of the funds, the law firm of Ritter & Fenske, Ltd. shall send to counsel for the United States, via express mail,⁶ checks made payable to the following persons, with the exception of the private plaintiffs and private plaintiffs' attorney, in the amounts indicated:

Cheryl Brooks	\$1,000
Donna Goff	\$1,000
Sha'tara Carpenter	\$1,000
Diane Long	\$1,000
Joannie Silvers	\$1,000
Joyce Carpenter	\$1,000
Linda Dahl	\$1,000
Cindy Haugley	\$1,000
Kathleen Mies	\$1,000
Private plaintiffs and private plaintiffs' attorney including fees and costs	\$11,000

Pursuant to Paragraph 17(b) of the Consent Order, within 12 months from the entry of this Consent Order, Defendant Ronald Bathrick shall deposit \$125,000 in an escrow account administered by the law firm Ritter & Fenske, Ltd. This amount is for the purpose of compensating the allegedly aggrieved persons and shall be distributed in the following manner: Within seven (7) business days of receipt of the funds, the law firm of Ritter & Fenske, Ltd. shall send to counsel for the United States, via express mail,⁷ checks made payable to the following persons, with the exception of the private plaintiffs and private plaintiffs' attorney, in the amounts indicated:

⁶ The overnight mail enclosing the checks shall be addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-39-95, United States Department of Justice, 1800 G Street, NW, Washington, D.C. 20006.

⁷ See fn.5, *supra*.
Consent Order: *United States v. Bathrick*

Cheryl Brooks	\$11,000
Donna Goff	\$9,000
Sha'tara Carpenter	\$8,000
Diane Long	\$8,000
Joannie Silvers	\$8,000
Joyce Carpenter	\$5,000
Linda Dahl	\$1,000
Cindy Haugley	\$500
Kathleen Mies	\$500

Private plaintiffs and
private plaintiffs' attorney
including fees and costs \$74,000

Pursuant to Paragraph 17(c) of the Consent Order, within 20 months from the entry of this Consent Order or within 10 days from the successful closing of the sale of his property in Inver Grove Heights (see Attachment D), whichever date is earlier, Defendant Ronald Bathrick shall deposit \$215,000 in an escrow account administered by the law firm Ritter & Fenske, Ltd. This amount is for the purpose of compensating the allegedly aggrieved persons and shall be distributed in the following manner: Within seven (7) business days of receipt of the funds, the law firm of Ritter & Fenske, Ltd. shall send to counsel for the United States, via express mail,⁸ checks made payable to the following persons, with the exception of the private plaintiffs and private plaintiffs' attorney, in the amounts indicated:

Cheryl Brooks	\$33,000
Donna Goff	\$25,000
Sha'tara Carpenter	\$21,000
Diane Long	\$21,000
Joannie Silvers	\$21,000
Joyce Carpenter	\$9,000
Linda Dahl	\$5,000
Cindy Haugley	\$2,500
Kathleen Mies	\$2,500

Private plaintiffs and
private plaintiffs' attorney
including fees and costs \$75,000

⁸ See fn.5, *supra*.

ATTACHMENT D

Legal Description of Defendant's Inver Grove Heights Property

General Description: 20.11 acres of vacant residential property

Location: 80th Street, Inver Grove Heights, MN 55077

Dakota County PID #: 20-00800-013-51

Plat Name: Section 8 TWN 27 Range 22

ATTACHMENT E

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. Ronald J. Bathrick, Civil No. 04-940 (D. Minn.), and Defendant Ronald J. Bathrick's payment to me of \$ _____, pursuant to the three installment payments set out in the Consent Order, I hereby release and forever discharge all claims 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 the housing discrimination alleged in that litigation up to and including the date of execution of this release, that I may have against Defendant Ronald J. Bathrick, all related entities, parents, predecessors, successors, subsidiaries and affiliates, and all of his past and present directors, officers, agents, managers, supervisors, shareholders and employees and his heirs, executors, administrators, successors or assigns.

Executed this _____ day of _____, 2007.

[Print Name]

[Signature]

ATTACHMENT F

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. Ronald J. Bathrick, Civil No. 04-910 (D. Minn.), and Defendant Ronald J. Bathrick's payment to the Private Plaintiffs (Terri Anderson, Enjoli Rosas and Ameenah Hill) of \$160,000.00, pursuant to the Consent Order, we hereby release and forever discharge all claims related to the facts at issue in the litigation referenced above, or alleged in that litigation up to and including the date of execution of this release, that we may have against Defendant Ronald J. Bathrick, all related entities, parents, predecessors, successors, subsidiaries and affiliates, and all of his past and present directors, officers, agents, managers, supervisors, shareholders and employees and his heirs, executors, administrators, successors or assigns.

Dated:

Terri Anderson

Dated:

Enjoli Rosas

Dated:

Ameenah Hill

ATTACHMENT G

List of Properties Subject to Lis Pendens

1. 1630 Vermillion, Hastings, Minnesota
2. Inver Grove Heights Property, Inver Grove Heights, Minnesota
3. 507 & 507 ½ West 7th Street, Hastings, Minnesota