

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
SHARON SPEARS and CIERRA Y. LEWIS,)	
)	
Plaintiff-Interveners,)	
)	No. 05-CV-934
v.)	
)	
WALTER PERLICK FAMILY TRUST,)	
ROBERT PERLICK, ESTATE OF)	
TONEY RUSSELL, and PATRICIA RUSSELL)	
)	
Defendants.)	
)	
SHARON SPEARS)	
and)	
CIERRA A. LEWIS (her minor child))	
)	
Plaintiffs,)	
)	
v.)	No. 06-cv-1116
)	
WALTER PERLICK FAMILY TRUST,)	
ROBERT PERLICK, and)	
DUDLEY GODFREY)	
)	
Defendants.)	

CONSENT ORDER

Plaintiff, United States of America, initiated Case No. 05-cv-934 on September 1, 2005, on behalf of Sharon Spears and her minor child, Cierra Y. Lewis (“Complainants”), pursuant to Section 812(o) of the Fair Housing Act, 42 U.S.C. § 3612(o). The United States also filed suit

alleging that the Defendants engaged in a pattern or practice of discrimination on the basis of familial status pursuant to Section 814(a) of the Fair Housing Act, 42 U.S.C. § 3614(a). On May 16, 2007, The United States District Court, Eastern District of Wisconsin granted summary judgment as to liability against each of the defendants except for Patricia Russell.

HUD Complainant Sharon Spears and her daughter Cierra Y. Lewis, intervened in Case No. 05-cv-934 and filed a separate action, Case No. 06-cv-116, based on the same facts against the Walter Perlick Family Trust and Robert Perlick. The private action included an additional defendant, Dudley Godfrey, in the complaint. On February 12, 2007 this court granted Spears and Lewis' motion to consolidate their action with this action.

Defendant Walter Perlick Family Trust owns a 15-unit apartment complex located at 4215 W. Martin Drive, Milwaukee, Wisconsin, 53218 and a 6-unit apartment complex at 4260 W. Highland Blvd. Milwaukee, Wisconsin 53208. Defendant Robert Perlick is a Co-Trustee of the Walter Perlick Family Trust and at all times relevant managed the rental activities at the two apartment buildings. Defendants Toney Russell¹ and Patricia Russell were at all times relevant Mr. Perlick's onsite managers. The Walter Perlick Family Trust, Robert Perlick, Toney Russell and Patricia Russell are referred to collectively as "Defendants." Dudley Godfrey is also a Co-Trustee of the Trust. Defendants' represent that Mr. Godfrey had no involvement in any rental activities and had no involvement in hiring or supervising the Russells.

¹Because Defendant Toney Russell died during the pendency of the case, the parties stipulate to substitute the Estate of Toney Russell as a party to this matter, pursuant to Federal Rule of Civil Procedure 25(a).

ALLEGATIONS

The United States' complaint alleges the following based upon an investigation by the Department of Housing and Urban Development (HUD):

On or around October 7, 2003, Sharon Spears (Complainant) called a phone number listed in an advertisement in the *Milwaukee Journal Sentinel*, and spoke with a woman. The HUD investigation later confirmed that the woman who answered the phone was Patricia Russell. During the phone conversation, Mrs. Russell asked Ms. Spears if she had any children. Ms. Spears responded that she had one child, to which Mrs. Russell replied "no kids." Ms. Spears asked Mrs. Russell what she meant, and Mrs. Russell said "no kids allowed." Mrs. Russell then hung up on Ms. Spears. According to Katherine Spears, Sharon's mother, she called the same number in the ad approximately 30 minutes later and spoke with Mrs. Russell. Mrs. Russell similarly told Katherine Spears that they "don't rent to children."

On October 13, 2003, six days after speaking with Mrs. Russell, Ms. Spears contacted the Metropolitan Milwaukee Fair Housing Council (MMFHC). In response to conversations with Ms. Spears, MMFHC conducted two fair housing tests of the apartment complexes shortly thereafter.

On May 17, 2004, Complainant Sharon Spears filed a complaint of discrimination (HUD Form 903) with the Department of Housing and Urban Development ("HUD") alleging that Defendant discriminated against her and her daughter, Cierra Y. Lewis, on the basis of their familial status, in violation of the Fair Housing Act, as amended, 42 U.S.C. §§3601, et seq. Thereafter, the United States filed this action.

Defendant Robert Perlick has previously been the subject of a familial status housing discrimination complaint. In 1991, the Secretary of HUD brought a charge of discrimination against Robert Perlick in HUD ALJ Case No. 05-90-1369-1, alleging a violation of 42 U.S.C. § 3604(a), (c) and (d) for allegedly applying a “singles only rental policy.” On March 9, 1992, Robert Perlick entered into an Initial Decision and Consent Order to settle the dispute. That Consent Order included a permanent injunction and expired in 1995.

The United States’ complaint alleges that Defendants have discriminated against Sharon Spears and her minor child by denying or refusing to negotiate for the rental of, or otherwise making a dwelling unavailable on the basis of familial status, in violation of 42 U.S.C. § 3604(a); and made statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination, based on familial status, or an intention to make such preference, limitation, or discrimination in violation of 42 U.S.C. § 3604(c).

The United States’ complaint further alleges that Defendants’ conduct as described above constitutes a pattern or practice of resistance to the full enjoyment of rights granted by the Act; and a denial to a group of persons of rights granted by the Act, which denial raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

Mr. Perlick, the Walter Perlick Family Trust, Patricia Russell, and Dudley Godfrey deny that they were aware of the discriminatory actions committed against Ms. Spears and Ms. Lewis by Mr. Russell and assert that they did not approve of that discriminatory conduct. Patricia Russell denies that she spoke to Ms. Spears and denies that she told Ms. Spears’ mother that “no kids were allowed.” Dudley Godfrey denies any involvement in rental activities and any

involvement in hiring or supervising Toney and Patricia Russell. In an effort to avoid costly litigation, the United States, Ms. Spears, the Defendants, and Dudley Godfrey have voluntarily agreed to resolve their claims without the necessity of a trial. Therefore, the parties have agreed to the entry of this Consent Order, as indicated by the signatures below.

JURISDICTION OF CONSENT ORDER

1. The parties have consented to the entry of this Order. To this end, the Parties stipulate and the Court finds that this Court has subject matter jurisdiction over these actions pursuant to 28 U.S.C. §§ 1331, 1345 and 42 U.S.C. §§ 3612(o), 3614(a).

GENERAL INJUNCTION

2. The Defendants, their officers, agents, employees, successors and all persons in active concert or participation with them are enjoined, with respect to the rental of dwelling units at the apartment complexes located at 4215 W. Martin Drive, Milwaukee, Wisconsin and 4260 W. Highland Blvd. Milwaukee, Wisconsin, and at any other rental properties the Defendants may own or have interest in (hereinafter “Defendants’ Apartments”), from:

a. Refusing to rent after the making of a bona fide offer, or refusing to negotiate for the rental of, or otherwise making unavailable or denying a dwelling to any person because of familial status;

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 therewith, because of familial status;

c. Making, printing, or publishing, or causing to be made, printed, or published

any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination; and

d. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by 42 U.S.C. § 3604.

NOTICE OF DEFENDANTS' NON-DISCRIMINATION POLICY

3. Within ten (10) days of the date of entry of this Consent Order, Defendants shall post and prominently display in a suitable public area on the ground floor of each of the apartment complexes at 4215 W. Martin Drive, Milwaukee, Wisconsin and at 4260 W. Highland Blvd. Milwaukee, Wisconsin, a sign indicating that they comply with the nondiscrimination provisions of the Fair Housing Act. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.

4. For the duration of this Consent Order, in all future advertising in newspapers, and on pamphlets, brochures and other promotional literature regarding Defendants' apartment complexes located at 4215 W. Martin Drive, Milwaukee, Wisconsin and 4260 W. Highland Blvd. Milwaukee, Wisconsin, and at any other rental properties the Defendants may own or have interest in, they shall place, in a conspicuous location, the statement Equal Housing Opportunity along with the Fair Housing Logo.

5. Within ten (10) days of this Order, Defendants shall distribute a notice to tenants at

Defendants' Apartments, approved by the United States, stating that they rent dwellings in accordance with the Fair Housing Act, including its prohibition on discrimination against families with children.

MANDATORY EDUCATION AND TRAINING

6. Within thirty (30) days of the entry of this Order, Defendants shall provide a copy of this Order to T.J. Perlick-Molinari, whom defendants represent has assumed all of the rental duties formerly performed by Toney and Patricia Russell. Defendants shall secure the signed statement from T.J. Perlick-Molinari acknowledging that he has received and read the Order, and had an opportunity to have questions about the Order answered. This statement shall be substantially in the form of Appendix A.

7. During the term of this Order, if anyone other than Robert Perlick or T.J. Perlick-Molinari performs any duties related to the rental or management of the Defendants' Apartments, within thirty (30) days after the date he or she assumes those duties, each such person shall be given a copy of this Order and be required to sign the statement acknowledging that he or she has received and read the Order, and had an opportunity to have questions about the Order answered. This statement shall be substantially in the form of Appendix A.

8. Within ninety (90) days of the date of entry of this Consent Order, Defendants shall ensure that T.J. Perlick-Molinari and Robert Perlick attend training on the Fair Housing Act, with particular emphasis on the provisions prohibiting discrimination on the basis of familial status. During the duration of the decree, if any other person assumes the rental and management duties of Defendants' Apartments, Defendants shall also ensure that such person or persons attends

substantially similar training within 90 days of the date he or she commences employment or agency. The training shall be conducted by the Metropolitan Milwaukee Fair Housing Council, and any expenses associated with this training shall be borne by Defendants. Defendants shall provide to the United States within thirty (30) days after the training, the name(s), address(es) and telephone number(s) of the trainer(s); copies of the training outlines and any materials distributed by the trainers; and certifications executed by the covered persons confirming their attendance, in a form substantially equivalent to Appendix B.

PAYMENT OF MONETARY DAMAGES

9. Within ten (10) days after the date of this Decree, Counsel for Sharon Spears shall deliver to Defendants a signed copy of the Release Agreement attached hereto as Appendix C. Within ten (10) days of receipt of said Release Agreement, Defendants shall deliver to Counsel for Sharon Spears, one check for \$39,000 made payable to the order of Herrick & Kasdorf Client Trust Account. Delivery of the check shall constitute Defendants' full monetary payment due to Ms. Spears, Ms. Lewis, and their attorney².

CIVIL PENALTY

10. The Defendants shall pay a civil penalty in the amount of eleven thousand dollars (\$11,000) to the United States, pursuant to 42 U.S.C. § 3614(d)(1)(C). Such payment shall be made by check payable to the "United States Treasury" and shall be delivered to counsel for the United States within ten (10) days after the date of entry of this Order.

² As noted on Page 1, supra, in the related case, Sharon Spears and Cierra Lewis named Dudley Godfrey as an additional Defendant. Sharon Spears and Cierra Lewis shall agree to release all claims against both the Defendants and Dudley Godfrey in the signed copy of the Release Agreement attached hereto as Appendix C.

PROCESSING RENTAL APPLICATIONS, RECORD KEEPING AND REPORTING

11. Defendants shall adopt, implement, and submit to the United States, a written policy providing that the Walter Perlick Family Trust abides by all fair housing laws and will accept an application, written or verbal, from anyone who desires to apply to rent an apartment. The policy shall be in force throughout the term of the Consent Order. If during the term of the Consent Order any person other than T.J. Perlick-Molinari or Robert Perlick performs any duties related to the rental or management of the Defendants' Apartments, within thirty (30) days after the date he or she assumes those duties, Defendants shall adopt, implement, and submit to the United States for approval, written procedures to ensure the creation and maintenance of each of the items listed in paragraph 13.

12. Within six (6) months of the entry of this Order, and every six (6) months thereafter for the period in which the Order is in effect, Defendants shall deliver to counsel for the United States³, a report containing information about Defendants' compliance with all requirements of this consent order, including but not limited to the items contained in paragraph 13.

13. With respect to the rental of dwelling units, within thirty (30) days from the date of this Order and continuing for its entire term, Defendants shall ensure that each of the following are maintained:

- a. A copy of the written application of any person who elects to complete a written

³ All documents or other communications required by this Order to be sent to counsel for the United States shall be sent via regular first class mail (with attachments) to the attention of: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-85-427, United States Department of Justice, 950 Pennsylvania Avenue, N.W., G Street Building, Washington, D.C. 20530. Unless otherwise agreed between counsel, a copy of the documents (without attachments) also shall be sent via facsimile.

application for a dwelling at Defendants' Apartments during the six month period covered by the report.

- b. A list of all vacancies at Defendants' Apartments during the reporting period, including: the unit address, the date the tenant moved out, the date the unit was rented or committed to rental, and the date the new tenant moved in.
- c. Current occupancy statistics, by unit, indicating the number of people living in each unit and the respective number of children who Defendants reasonably believe have not reached the age of 18 years and or adults occupying each unit.
- d. A copy of the lease of each new tenant.
- e. A log for Defendants' Apartments that lists the name and phone number of every person who visits or inquires about a possible vacancy in Defendants' Apartments, whether that person viewed a vacant apartment, the date of the viewing and the number and address of the apartment viewed, whether the person applied to rent the vacant apartment, whether the person's application was accepted or rejected, and the reason for the rejection, if applicable.

14. During the term of this Order, Defendants agree to retain all rental records, including the items contained in paragraph 13, and upon reasonable notice, Defendants shall produce or permit representatives of the United States to review any rental records of the apartment complexes at 4215 W. Martin Drive, Milwaukee, Wisconsin and 4260 W. Highland Blvd. Milwaukee, Wisconsin, in the possession or control of the Defendants, or their agents, employees, or representatives.

15. During the term of this Order, Defendants shall advise counsel for the United States in writing within fifteen (15) days of receipt of any written or oral complaint against the Defendants regarding discrimination on the basis of familial status, or retaliation, coercion, or intimidation for having filed such a discrimination complaint or otherwise having exercised fair housing rights related to familial status discrimination, and a description of the resolution of such complaint. If the complaint is written, the Defendants shall provide a copy of it with the notice; if the complaint is oral, they shall include a written summary of it with the notice. The notice shall include the full details of the complaint, including the complainant's name, address, and telephone number. The Defendants shall promptly provide the United States all information it may request concerning any such complaint. Within fifteen (15) days of the resolution of any such complaints, Defendants shall advise counsel for the United States of such resolution.

DURATION OF CONSENT ORDER AND TERMINATION OF LEGAL ACTION

16. This Consent Order shall remain in effect for three (3) years after the date of its entry. By consenting to entry of this Order, the United States and Defendants agree that in the event that Defendants 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)(1)(C)(ii).

17. Except for the relief provided for in this Consent Order, Case Nos. 05-cv-0934 and 06-cv-1116 are dismissed with prejudice, but the Court shall retain jurisdiction for the duration of this Consent Decree to enforce the terms of the Decree. Plaintiff may move the Court to extend the duration of the Decree in the interests of justice.

18. The parties to this Consent 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 of a failure by the Defendants to perform, in a timely manner, any act required by this Order or otherwise for the Defendants to fail 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, costs, and reasonable attorney's fees which may have been occasioned by the violation or failure to perform.

TIME FOR PERFORMANCE

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

COST OF LITIGATION

20. Each party to this litigation will bear its own costs and attorney fees associated with this litigation.

SO ORDERED.

Dated at Milwaukee, Wisconsin this 14th day of September, 2007.

BY THE COURT:

s/ J. P. Stadtmueller
J. P. Stadtmueller
U.S. District Judge

Judgment entered this 14th day of September, 2007

JON W. SANFILIPPO
Clerk of Court

BY:

s/ Patricia K. Blackburn
Deputy Clerk

Agreed to by the parties as indicated by the signatures of counsel below.

FOR PLAINTIFF UNITED STATES:

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RENA J. COMISAC
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s/ Matthew V. Richmond
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FOR DEFENDANTS WALTER PERLICK
FAMILY TRUST, ROBERT PERLICK; THE
ESTATE OF TONEY RUSSELL, PATRICIA
RUSSELL, and DUDLEY GODFREY:

FOR INTERVENER SHARON SPEARS and
CIERRA LEWIS:

s/ Jeffrey Morris
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APPENDIX A

**STATEMENT OF RECEIPT AND
UNDERSTANDING OF CONSENT ORDER**

On _____, 200__, I was told by _____ about my responsibilities under the Consent Order entered by the federal district court in United States v. Walter Perlick Family Trust, Robert Perlick, Toney Russell and Patricia Russell Civil Action No. 2:05-cv-934 (E.D. Wisconsin), and the federal Fair Housing Act and applicable state laws. I was also told about the Trusts' non-discriminatory rental policies and procedures. I have received copies of and have read the Consent Order and Defendants' non-discrimination policy. I have had an opportunity to have my questions about the Consent Order and the Fair Housing Act answered. I understand my legal responsibilities and will comply with those responsibilities.

(Signature)

(Print name)

(Date)

APPENDIX B

(Certificate of Attendance)

I, _____, hereby acknowledge that on _____

I received training by _____ on the requirements of the Fair Housing Act,

42 U.S.C. §§ 3601-19, and that I have read the Consent Order entered by the United States

District Court for the Eastern District of Wisconsin, Milwaukee Division in United States v.

Walter Perlick Family Trust, Robert Perlick, Toney Russell and Patricia Russell Civil Action No.

2:05-cv-934.

I understand my obligation not to discriminate on the basis of familial status in violation of the Fair Housing Act.

I agree to comply with the Fair Housing Act and the Court's Order in the above-mentioned civil action.

Sworn to and subscribed before me
this ___ day of _____, _____.

NOTARY PUBLIC

My commission expires _____.

APPENDIX C

Release

FULL AND FINAL RELEASE OF CLAIMS

I, _____, on behalf of myself and family members, including my minor daughter Cierra A. Lewis, agents, heirs, executors, administrators, successors and assigns, pursuant to the terms, provisions, and conditions of the Consent Order approved by the United States District Court for the Eastern District of Wisconsin, Milwaukee Division on _____, 2007 in the cases of *United States v. Walter Perlick Family Trust, Robert Perlick, Toney Russell and Patricia Russell* Civil Action No. 2:05-cv-934 and *Sharon Spears and Cierra A. Lewis v. Walter Perlick Family Trust, Robert Perlick, and Dudley Godfrey* Civil Action No. 06-cv-1116 (“the lawsuits”) and in consideration of the payment of _____ do fully, finally and forever release, discharge, and hold harmless the Walter Perlick Family Trust, Robert Perlick, Tony Russell, and Patricia Russell (hereinafter “the Defendants”), and Dudley Godfrey, along with their attorneys, related companies, principals, predecessors, successors, assigns, affiliates, partners, directors, officers, agents, employers, shareholders, subsidiaries, employees, former employees, heirs, executors, and administrators and any persons acting under their respective direction or control (hereinafter “Releasees”), from any and all fair housing claims set forth, or which could have been set forth, in the Complaint in this lawsuit that I may have against Defendants or Dudley Godfrey or any of the Releasees for any of Defendants’ or Dudley Godfrey’s actions or statements related to those claims through the date of this Consent Order, including claims for damages, costs, fines and attorneys’ fees.

I affirm that the only consideration for signing this Full and Final Release of Claims are the terms stated in the Consent Order signed by the parties, and the monetary payment referenced above. I have accepted the terms of this Release and the Consent Order because I believe them to be a fair and reasonable settlement and for no other reason. This Release and the Consent Order contain and constitute the entire understanding and agreement between the parties.

DATE

NAME (PRINT)

SIGNATURE