

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 3:13CV-836-H
JERRY L. WILSON and)	
EME, LLC,)	
)	
Defendants.)	
_____)	

CONSENT ORDER

I. BACKGROUND

1. The United States initiated this action on August 27, 2013, pursuant to the Fair Housing Act (“FHA”), 42 U.S.C §§ 3601-3619.
2. Treva Court Apartments, a four-building, forty-eight unit apartment complex, is located at 272 Treva Court in Mount Washington, Kentucky.
3. Defendant Jerry L. Wilson is a resident of Kentucky and manages Treva Court Apartments.
4. Defendant EME, LLC is a limited liability corporation licensed to do business in Kentucky. EME, LLC owns Treva Court Apartments.
5. Between July and November 2012, the United States Department of Justice conducted testing to evaluate Defendants’ compliance with the Fair Housing Act. Testing is a simulation of a housing transaction that compares responses given by housing providers to different types of home-seekers to determine whether illegal discrimination is occurring.

6. The United States, in its Complaint, alleges that Defendant Wilson discriminated on the basis of race or color at Treva Court Apartments by:

- a. refusing to negotiate for the rental of, or otherwise making unavailable or denying, dwellings to persons because of race or color, in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. § 3604(a); and
- b. misrepresenting the availability of dwellings on the basis of race or color, in violation of Section 804(d) of the Fair Housing Act, 42 U.S.C. § 3604(d).

7. The United States, in its Complaint, further alleges that Defendant Wilson discriminated on the basis of familial status at Treva Court Apartments by making several oral statements with respect to the rental of a dwelling that indicated a preference, a limitation, or discrimination based on familial status, in violation of Section 804(c) of the Fair Housing Act, 42 U.S.C. § 3604(c).

8. The United States, in its Complaint, alleges that EME, LLC is liable for the discriminatory conduct of its agent, Jerry Wilson, described above.

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

Wherefore, it is ORDERED, ADJUDGED and DECREED:

II. GENERAL INJUNCTION

10. Defendants, along with their agents, employees, and all persons in active concert with Defendants, are enjoined from:

- a. refusing to negotiate for the rental of, or otherwise making unavailable or denying, a dwelling to any person because of race or color in violation of 42 U.S.C. § 3604(a);
- b. misrepresenting the availability of dwellings on the basis of race or color, in violation of 42 U.S.C. § 3604(d); and
- 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 in violation of 42 U.S.C. § 3604(c).

III. NOTICE TO PUBLIC OF NONDISCRIMINATION POLICY

- 11. Within thirty (30) days of the date of entry of this Consent Order, Defendants shall take the following steps to notify the public of their non-discrimination policy:
 - a. Post and prominently display in all offices or areas Defendants may currently or subsequently use for the rental of dwellings, a sign no smaller than ten (10) inches by fourteen (14) inches indicating that all dwellings are available for rental on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.
 - b. Include the following written statement in all advertisements for rentals, including advertisements in newspapers, internet webpages, flyers, handouts, telephone directories and other written materials, and all rental applications and all leases: “We are an equal opportunity housing provider. We do not discriminate

on the basis of race, color, religion, sex, disability, familial status (having children under age 18), or national origin.”

IV. MANDATORY TRAINING

12. Within 90 days of the date of entry of this Consent Order, Defendant Wilson and any other employee involved in the management of, or the rental of units at, Treva Court Apartments shall attend an educational program that will offer instruction regarding his or her obligations under this Order and the federal Fair Housing Act. Defendants shall pay the cost of this educational program. The United States shall review and approve the content and form of the program. The trainer or training entity shall be qualified to perform such training, independent of Defendants or their counsel, and approved in advance by the United States.

13. Defendant Wilson and any other employee involved in the management of, or rental of units at, Treva Court Apartments shall certify that he or she has participated in the educational training program, and that he or she understands and acknowledges his or her duties and responsibilities under this Order and the federal Fair Housing Act, by completing an acknowledgement in the form of Attachment A to this Order.

V. REPORTING AND RECORD KEEPING REQUIREMENTS

14. Within one hundred twenty (120) days of the date of entry of this Consent Order, and thereafter on the anniversary of the date of entry of this Consent Order, Defendants shall submit to counsel for the United States a compliance report, except that the final report shall be submitted sixty (60) days prior to the anniversary of the date of entry of this Consent Order.¹

¹ All correspondence required to be sent to the United States under the provisions of this Order shall be sent to the U.S. Department of Justice, care of the undersigned counsel for the United States, Attn: DJ 175-31-139, at the following addresses:

The compliance report shall include: (a) the signed acknowledgement form(s) referred to above in paragraph 13; (b) copies of any advertising for Treva Court Apartments in newspapers, in telephone directories, on radio, on television, on the internet, or in other media published since the submission of the prior report; and (c) photographs showing the Nondiscrimination Policy described in Paragraph 11 posted and prominently displayed in Treva Court Apartments' lobby and leasing office.

15. Defendants shall notify counsel for the United States in writing within fifteen (15) days of receipt of any written or oral complaint against Defendants alleging discrimination on the basis of race, color or familial status. If the complaint is written, Defendants shall provide a copy of it with the notification. The notification shall include the full details of the complaint, including the complainant's name, address, and telephone number. Defendants shall also promptly provide the United States all information it may request concerning any such complaint and shall inform the United States in writing within fifteen (15) days of the terms of any resolution of such a complaint.

16. Defendants shall preserve all records related to this Consent Order and to Treva Court Apartments. Such documents include, but are not limited to, advertisements, applications, rent rolls, waiting lists, leases, and tenant files. Upon reasonable notice to Defendants, representatives for the United States shall be permitted to inspect and copy any records related to

Regular U.S. Mail:	950 Pennsylvania Avenue, N.W. Washington, D.C. 20530
Overnight Mail:	1800 G Street, N.W. Suite 7002 Washington, D.C. 20006

Correspondence may also be sent via electronic mail to the U.S. Department of Justice, care of the undersigned counsel for the United States.

this Consent Order so as to determine compliance with the Consent Order, provided, however, that the United States shall endeavor to minimize any inconvenience to Defendants.

VI. COMPLIANCE TESTING

17. The United States may take steps to monitor Defendants' compliance with the Consent Order including, but not limited to, conducting fair housing tests at Treva Court Apartments to determine if Defendants are violating any part of this Order.

VII. CIVIL PENALTY

18. Within thirty (30) days of the date of entry of this Consent Order, Defendants shall pay a total of twenty-two thousand dollars (\$22,000) to the United States as a civil penalty, pursuant to 42 U.S.C. 3614(d)(1)(C). This payment shall be in the form of an electronic funds transfer pursuant to written instructions by the United States.

19. In the event that Defendants or any of their officers, agents, or employees are found liable for any future violation of the Fair Housing Act, such violation shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii).

VIII. RELEASE OF LITIGATION HOLDS

20. The parties agree that, as of the date of this Decree, litigation is not "reasonably foreseeable" concerning the matters described in paragraphs 1-8. To the extent that any of the parties previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in paragraphs 1-8, the parties are no longer required to maintain such a litigation hold. Nothing in this paragraph relieves the parties of any other obligation imposed by this Decree.

IX. SCOPE AND DURATION OF CONSENT ORDER

21. The provisions of this Consent Order shall apply to Defendants, their employees, agents, successors, and all persons acting in active concert or participation with him, but shall not apply to independent third-party purchasers of Treva Court Apartments for value in an arms-length transaction.

22. This Order is effective immediately upon its entry by the Court and shall remain in effect for three years from the date of entry.

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

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

25. 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 Defendants either fail to perform in a timely manner any act required by this Order or act in violation of any provision of this Order, the United States may move the Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance or non-performance of certain acts and an award of any damages and costs that may have been occasioned by Defendants' action or inaction.

26. Any time period set forth within this Order for the performance of any act may be changed by written agreement of the parties without Court approval.

X. COSTS OF LITIGATION

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

IT IS SO ORDERED:

This ____ day of _____, 2013.

UNITED STATES DISTRICT COURT JUDGE

By their signatures below, the parties consent to the entry of this Consent Order.

FOR THE UNITED STATES:

Dated: August 27, 2013

DAVID J. HALE
United States Attorney
Western District of Kentucky

JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

s/ Benjamin S. Schecter
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FOR DEFENDANTS:

Dated: August 26, 2013

ROBERT BARNETT, ESQ.

s/ Robert E. Barnett
Barnett, Porter & Dunn
Lakeview Building, Suite 401
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Louisville, Kentucky 40207
Tel: (502) 893-1385
Fax: (502) 893-8803

ATTACHMENT A

CERTIFICATE OF ATTENDANCE

I, _____, hereby acknowledge that on _____ 20 ____, I completed training conducted by _____ on the requirements of the Fair Housing Act, 42 U.S.C. §§ 3601-19, in compliance with Consent Order entered by the United States District Court for the Western District of Kentucky in United States v. Jerry L. Wilson and EME, LLC.

I understand my obligation to not discriminate against any person in the terms, conditions or privileges of renting a dwelling because of race, color, religion, national origin, disability, familial status (having children under age 18), or sex.

I understand my obligation not to retaliate against any individual for exercising a right protected by the Fair Housing Act in violation of Section 818 of the Act.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 20__.

Name