

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the United States Department of Housing and Urban Development (collectively, the “United States”); 44 Gerrish, LLC (“44 Gerrish”) and Hallkeen Management, Inc. (“Hallkeen”) (collectively, 44 Gerrish and Hallkeen are “Defendants”); and the Estate of Eduardo Green (“Green” or “Relator”) (hereafter the United States, Defendants, and Relator are collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. 44 Gerrish is the owner of an apartment building containing 46 apartment units located at 44 Gerrish Avenue in Chelsea, MA (“Flats @ 44”). 44 Gerrish contracted with HallKeen to manage the day-to-day operations at Flats @ 44.

B. At different times between June 2014 and October 2020, the Defendants rented three apartment units to low-income individuals who qualified to receive federal housing subsidies through two programs directed by the United States Department of Housing and Urban Development (“HUD”): the Section 8 Voucher program and the Shelter Plus Care program.

B. Under both programs, HUD required the Defendants to sign contracts with a public housing agency (“PHA”) that conditioned the Defendants’ receipt of the federal housing subsidy for these three tenants on compliance with provisions therein. One of the conditions set forth in the contracts required Defendants not to demand or receive any money from a Section 8 Voucher or Shelter Plus Care program recipient in excess of the

total rent-to-owner, including utilities, that the PHA establishes for the apartment unit based on the geographic market, habitability, and amenities.

C. On May 13, 2019, Green, a Shelter Plus Care program recipient, filed an action in the United States District Court for the District of Massachusetts captioned *United States ex rel. Green v. 44 Gerrish, LLC and HallKeen Management, Inc.*, No. 19-cv-11092-FDS, pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). The complaint alleged that the Defendants impermissibly demanded and received monies from Green for the water and sewer utility from on or about June 11, 2014 through October 2020, in violation of the provisions of a contract the Defendants entered into with HUD and a PHA. The complaint further alleged that the Defendants’ receipt of Shelter Plus Care program subsidies, while demanding and receiving excess monies from Green, resulted in the submission of false claims to HUD in violation of the False Claims Act, 31 U.S.C. § 3729, *et seq.* The United States intervened in the Civil Action for settlement purposes on October 29, 2021.

C. The United States contends that it has certain civil claims against the Defendants arising out of their submission of, or for causing the submission of, false claims to HUD for monthly voucher program subsidy payments, while demanding, receiving, and/or retaining monies from Section 8 Voucher or Shelter Plus Care program recipients that exceeded the total rent-to-owner amount limit set by the PHA for the apartment.

D. The Defendants admit, acknowledge, and accept responsibility for the following facts:

1. From approximately June 2014 to approximately October 2020, Green received a federal housing subsidy under HUD's Shelter Plus Care program and rented an apartment from the Defendants. In June 2014, a representative of HallKeen, on behalf of 44 Gerrish, signed two agreements with HUD, by and through the Metropolitan Boston Housing Partnership ("MBHP") as the PHA, a Housing Assistance Payment ("HAP") contract and a Tenancy Based Occupancy Agreement ("TBOA"). The Defendants agreed to follow certain requirements therein in exchange for receiving Green's Shelter Plus Care program subsidy each month, which paid for a substantial portion of the "total rent-to-owner" set by MBHP for the apartment unit. The total rent-to-owner was contractually defined as including the rent and any utilities to be covered by HUD and the PHA. The TBOA states that the owner and/or landlord was wholly responsible for paying the water and sewer utility during Green's tenancy. The Defendants agreed, as a condition for receiving the Shelter Plus Care program subsidy, not to demand or receive any money from Green in excess of the total rent-to-owner. Nevertheless, between June 2014 and December 2019, the Defendants impermissibly required Green to pay approximately \$5,092.76 for the water and sewer utility, in violation of the provisions of the HAP contract.
2. From approximately May 2014 through May 2017, Tenant 2—whose identity is known to the Parties and benefited from a federal housing subsidy under HUD's Section 8 Program—rented an apartment unit at

Flats @ 44 from the Defendants. In May 2014, a representative of HallKeen signed an agreement with HUD on behalf of 44 Gerrish, by and through MBHP as the PHA. Therein, the Defendants agreed to follow the requirements set forth in a HAP contract in exchange for receiving Tenant 2's Section 8 Voucher program subsidy each month to pay for a substantial portion of the "total rent-to-owner" set by MBHP for the apartment unit. The total rent-to-owner was contractually defined as the amount that includes the rent and any utilities to be covered by HUD and the PHA. The HAP signed by the Defendants states that the Defendants were wholly responsible for paying the water and sewer utility during Tenant 2's tenancy. As a condition for receiving the Section 8 Voucher program subsidy, the Defendants agreed not to demand or receive any money from Tenant 2 in excess of the total rent-to-owner that the PHA set for the apartment. Nevertheless, between May 2014 and May 2017, the Defendants impermissibly required Tenant 2 to pay \$915.19 for the water and sewer utilities, in violation of the provisions of the HAP contract.

3. From approximately February 2017 through December 2019, Tenant 3—whose identity is known to the Parties and benefited from a federal housing subsidy under HUD's Section 8 Voucher program—rented an apartment unit in Flats @ 44 from the Defendants. In February 2017, a representative of HallKeen, on behalf of 44 Gerrish, signed an agreement with HUD, by and through MBHP as the PHA. Therein, the Defendants agreed to follow the requirements set forth in a HAP contract in exchange

for receiving Tenant 3's Section 8 Voucher program subsidy each month to pay for a substantial portion of the "total rent-to-owner" set by MBHP for the apartment unit. The total rent-to-owner was contractually defined as the amount that includes the rent and any utilities to be covered by HUD and the PHA. The HAP signed by the Defendants stated that the Defendants were wholly responsible for paying the water and sewer utility during Tenant 3's tenancy. As a condition for receiving the Section 8 Voucher program subsidy, the Defendants agreed not to demand or receive any money from Tenant 3 in excess of the total rent-to-owner that the PHA set for the apartment unit. Nevertheless, from February 2017 to December 2019, the Defendants impermissibly required Tenant 3 to pay \$2,415.36 for the water and sewer utilities, in violation of the provisions of the HAP contract.

The United States' allegations referred to in this Recital D are referred to below as the "Covered Conduct."

E. The Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator's reasonable expenses, attorneys' fees and costs.

In consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. The Defendants agree to pay the United States the sum of \$80,000 plus interest as set forth below ("the Settlement Amount"), of which \$40,000 is restitution to

the United States. On the Effective Date of this Agreement as defined below, the Settlement Amount shall constitute a debt due and immediately owing to the United States, for which 44 Gerrish and HallKeen are jointly and severally liable.

2. The Defendants shall make payment of the Settlement Amount pursuant to written instructions to be provided by the Office of the United States Attorney's Office for the District of Massachusetts, no later than ten days after the Effective Date of this Agreement, with interest accruing on the Settlement Amount at a rate of 1.5% per annum from July 1, 2021.

3. Conditioned upon the United States receiving the Settlement Amount from the Defendants and as soon as feasible after receipt of payment, the United States shall pay to Relator by electronic funds transfer 22% of the Settlement Amount.

4. Subject to the exceptions in Paragraph 6 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount plus interest due under Paragraph 1, the United States releases the Defendants from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-33, the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-12, or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Subject to the exceptions in Paragraph 6 below, and conditioned upon the Defendants' full payment of the Settlement Amount, the Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases the Defendants from any civil monetary claim the Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Notwithstanding the release given in paragraph 4 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; and
- f. Any liability of individuals;

7. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B).

Conditioned upon Relator's receipt of the payment described in Paragraph 3, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

8. Relator expressly reserves his right to pursue reasonable expenses, attorney's fees and costs for the claims brought under the False Claims Act pursuant to 31 U.S.C. § 3730(d). Relator further expressly reserves his right to pursue the Second

(M.G.L. c. 93A), Third (Breach of Contract), and Fourth (Breach of Quiet Enjoyment) Causes of Action.

9. The Defendants waive and shall not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

10. The Defendants fully and finally release the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that the Defendants have asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

11. The Defendants fully and finally release the Relator from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that the Defendants have asserted, could have asserted, or may assert in the future against the Relator, related to the Covered Conduct and the Relator's investigation and prosecution thereof.

12. The Defendants warrant that they have reviewed their financial situations and that they are currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) and shall remain solvent following payment to the United States of the Settlement Amount.

13. This Agreement is intended to be for the benefit of the Parties only.

14. Upon receipt of payment of the Settlement Amount described in Paragraph 2, above, the United States and the Relator shall promptly sign and file in the Civil Action a Joint Stipulation of Partial Dismissal of the Civil Action (1) dismissing with prejudice all claims asserted on behalf of the United States against the Defendants for the Covered Conduct as set forth in the Agreement; and (2) reserving the Relator's right to pursue reasonable attorney's fees, expenses, and costs for claims brought under the False Claims Act pursuant to 31 U.S.C. § 3730(d); and his right to pursue the Second (M.G.L. c. 93A), Third (Breach of Contract), and Fourth (Breach of Quiet Enjoyment) Causes of Action.

15. Each Party shall bear its or his own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

16. Each Party and signatory to this Agreement represents that it or he freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

17. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Massachusetts. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

18. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

19. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

20. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

21. This Agreement is binding on the Defendants' successors, transferees, heirs, and assigns.


22. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

23. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

24. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date of this Agreement"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.


THE UNITED STATES OF AMERICA

DATED: 11/23/21


BY: 
STEVEN SHAROBEM
ALEXANDRA BRAZIER
Assistant United States Attorneys
United States Attorney's Office
District of Massachusetts

DEFENDANT 44 GERRISH LLC

DATED: 11/22/21

BY: 
44 GERRISH LLC

DATED: 11/22/21

BY: 
KATHLEEN CEGLARSKI BURNS
Counsel for 44 GERRISH LLC

DEFENDANT HALLKEEN MANAGEMENT INC.

DATED: _____

BY: _____

HALLKEEN MANAGEMENT INC.

DATED: _____

BY: _____

ALLEN DAVID
Counsel for HALLKEEN MANAGEMENT
INC.

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____

STEVEN SHAROBEM
ALEXANDRA BRAZIER
Assistant United States Attorneys
United States Attorney's Office
District of Massachusetts

DEFENDANT 44 GERRISH LLC

DATED: _____

BY: _____

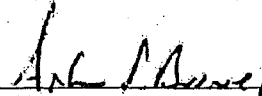
44 GERRISH LLC

DATED: _____

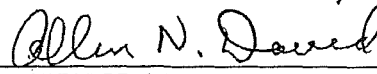
BY: _____
KATHLEEN CEGLARSKI BURNS
Counsel for 44 GERRISH LLC

DEFENDANT HALLKEEN MANAGEMENT INC.

DATED: 11/8/2021

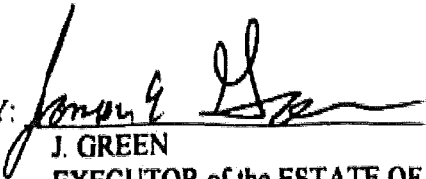
BY: 
Andrew P. Burnes
HALLKEEN MANAGEMENT INC.

DATED: 11/17/21


BY: 
ALLEN DAVID
Counsel for HALLKEEN MANAGEMENT
INC.

RELATOR ESTATE OF EDUARDO GREEN

DATED: 11/2/2021

BY: 
J. GREEN
EXECUTOR of the ESTATE OF
EDUARDO GREEN

DATED: 11/1/21

BY: 
GARY ALLEN
Counsel for ESTATE OF EDUARDO
GREEN