



**U.S. Equal Employment Opportunity Commission  
Office of Legal Counsel**

131 M Street NE  
Washington, DC 20507  
(202) 663-4500  
(202) 663-7026 TTY  
(202) 663-4679 FAX

June 17, 2011

Alison Somin  
19 North Garfield Street  
Arlington, VA 22201

Re: FOIA No.: 820-2011-142086

Dear Ms. Somin:

Your request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received by the Office of Legal Counsel on June 17, 2011, is assigned the above FOIA number. It will be processed by Tracy Smalls who can be reached at (202) 663-4500.

EEOC will issue a determination on your request on or before July 18, 2011. FOIA and EEOC regulations provide 20 working days to issue a determination on a request, not including Saturdays, Sundays and federal holidays. In unusual circumstances, EEOC may extend the 20 working days by 10 additional working days or stop processing your request until you respond to our request for fee or clarifying information. Should EEOC take an extension or stop processing your request, notice will be issued prior to the expiration of the 20 working days.

You may contact the Requester Service Center for status updates on your FOIA request or for FOIA information by telephone to (202) 663-4500, by fax to (202) 663-4639, by e-mail to [FOIA@eoc.gov](mailto:FOIA@eoc.gov), or by mail to the EEOC, Requester Service Center, 131 M Street NE, Suite 5NW02E, Washington, DC 20507. Additionally, you may monitor the status of your FOIA request online at <https://egov.eoc.gov/foia/>.

Cordially,

*Lori K. Bowden/sl*

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Lori K. Bowden  
Information Specialist  
FOIA Programs



**U.S. Equal Employment Opportunity Commission  
Office of Legal Counsel**

131 M Street NE  
Washington, DC 20507  
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July 21, 2011

Alison Somin  
19 North Garfield Street  
Arlington, VA 22201

**Re: FOIA No.: 820-2011-142086**  
*(Settlement agreements/Consent decrees/leftover funds)*

Dear Ms. Somin:

This letter is in response to your request or appeal under the Freedom of Information Act (FOIA), received in our office on June 17, 2011. As provided in U.S.C. § 552(a)(6)(B) (2007), we hereby provide you with the required written notice that we are extending by ten (10) working days the time in which we shall respond. Such extension is necessary because of the following "unusual circumstances":

- (i) the need to search for and collect the requested records, if any exist, from field offices or other establishments that are separate from this office;
- (ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;
- (iii) the need for consultation with another agency, or two or more components of this agency, having a substantial interest in the determination of the request.

We will respond to your request **by August 01, 2011**.

Sincerely,

A handwritten signature in blue ink that reads "Tracy L. Smalls".

Tracy L. Smalls  
Information Specialist/FOIA Programs



**U.S. Equal Employment Opportunity Commission  
Office of Legal Counsel**

131 M Street NE  
Washington, DC 20507  
(202) 663-4500  
(202) 663-7026 TTY  
(202) 663-4679 FAX

August 15, 2011

Alison Somin  
19 North Garfield Street  
Arlington, VA 22201

**Re: FOIA No.: 820-2011-142086**  
(Settlement agreements/Consent decrees/leftover funds)

Dear Ms. Somin:

We apologize for the delay, however, communication with another EEOC component was necessary regarding your Freedom of Information Act (FOIA) request. This letter is to notify you that fee information is needed in order to complete the processing of your FOIA request, received in this office on June 17, 2011.

In your request you requested information regarding settlement agreements or consent decrees containing cy pres provisions, or provisions for the disbursement of leftover settlement funds to non-profits, etc.

We estimated that the fees assessed in accordance with the fee schedule set forth in **29 C.F.R § 1610.15(c)(1) Schedule of fees and method of payment for services rendered** will be over the amount you stated you would pay in your FOIA request (\$100). The search and review time has been estimated at **568** hours. The search and review has to be conducted at several of our EEOC offices at different employee categories (see attached). The categories are: *Clerical, Paralegal, Professional Personnel, Manager and SES*. See below the employee rate and category.

<b>Employee Category</b>	<b>Per Quarter Hour</b>
Regional Attorney (Manager)	\$17.50
Attorney (Professional)	\$10.00
Paralegal	\$9.00
Secretary	\$5.00
Legal Tech	\$5.00
<b>Total Direct Cost</b>	<b>\$5,003.00</b>

As indicated in the above chart, the current estimated amount for search and review is **\$5,003.00**, in which EEOC requires advance payment. Refer to our regulations in **29 C.F.R § 1610.16(c)(1) Payment of fees**. Please notify us if you would like for us to proceed with your FOIA request. Please note that the requested amount is an estimate only and while searching for the records the estimated amount may increase.

**Re: FOIA No.: 820-2011-142086**

Please direct your written response to my attention at the address provided above within the next 10 business days.

Thank you for your attention to this request.

Sincerely,



Tracy L. Smalls  
Information Specialist/FOIA Programs



**Response To Settlement FOIA**  
 (Alison Somin)

<b><u>OFFICE</u></b>	<b><u>REGIONAL ATTORNEY</u></b> (GS-15/7)	<b><u>ATTORNEY</u></b> (GS-14/5)	<b><u>PARALEGAL</u></b> (GS-11/5)	<b><u>SECRETARY</u></b> (GS-7/6)	<b><u>LEGAL TECH</u></b> (GS-6/4)
<b>ATLANTA</b>		2	15		15
<b>BIRMINGHAM</b>		2	38		
<b>CHARLOTTE</b>		2	15		
<b>CHICAGO</b>		29	57	14	20
<b>DALLAS</b>		2	2		
<b>HOUSTON</b>	1	3	6		
<b>INDIANAPOLIS</b>		1	14		
<b>LOS ANGELES</b>	1	4	50		
<b>MEMPHIS</b>		2	9.5	3.5	
<b>MIAMI</b>		2	48		
<b>NEW YORK</b>	1	2	20		
<b>PHILADELPHIA</b>		4	87		
<b>PHOENIX</b>		20	43		
<b>SAN FRANCISCO</b>		2	15		
<b>ST. LOUIS</b>		5	8		
<b>OGC-HDQTRS</b>		1	2		
<b>Total Hours</b>	<b>3</b>	<b>83</b>	<b>429.5</b>	<b>17.5</b>	<b>35</b>

\*\*NOTE: The grade levels listed above denote the average grade level for each position.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Washington, D.C. 20507

October 26, 2011

Alison Somin  
19 North Garfield Street  
Arlington, VA 22201

**Re: FOIA APPEAL No.: 820-2012-149011**  
(FOIA No. 820-2011-142086)

Dear Ms. Somin:

Your appeal(s) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received by the Office of Legal Counsel on October 24, 2011, is assigned the above FOIA number. It will be processed by James Allison who can be reached at (202)663-4500.

EEOC will issue a determination on your request on or before November 22, 2011. FOIA and EEOC regulations provide 20 working days to issue a determination on a request, not including Saturdays, Sundays and federal holidays. In unusual circumstances, EEOC may extend the 20 working days by 10 additional working days or stop processing your request until you respond to our request for fee or clarifying information. Should EEOC take an extension or stop processing your request, notice will be issued prior to the expiration of the 20 working days.

You may contact the Requester Service Center for status updates on your request or for FOIA information by telephone to 202/663-4500, by fax to 202/663-4679, by e-mail to [FOIA@eoc.gov](mailto:FOIA@eoc.gov), or by mail to the EEOC, Requester Service Center, 131 M Street NE, Suite 5NW02E, Washington, D.C. 20507. If you filed your request via the EEOC internet site, you may check the status of your request at <https://egov.eoc.gov/foia/>.

Sincerely,

  
Stephanie D. Garner  
Assistant Legal Counsel FOIA Programs



**U.S. Equal Employment Opportunity Commission  
Office of Legal Counsel**

131 M Street NE  
Washington, DC 20507  
(202) 663-4500  
(202) 663-7026 TTY  
(202) 663-4679 FAX

Alison Somin  
19 North Garfield Street  
Arlington, VA 22201

SEP 21 2011

**Re: FOIA No.: 820-2011-142086**

Dear Ms. Somin:

Your Freedom of Information Act (FOIA) request, received in this office on June 17, 2011 has been processed. Our search began on June 17, 2011. All agency records in creation as of June 17, 2011 are within the scope of the EEOC's search for responsive records. The paragraph(s) checked below apply:

A portion of your request is neither granted nor denied because:  Your request does not reasonably describe the records you wish disclosed or  No records fitting the description of the records you seek disclosed exist or could be located after a thorough search. The remainder of your request is:

Granted

Denied pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.

Granted in part and denied in part. Portions not released are being withheld pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.

Your request is granted.

Your request is denied pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.

Your request is granted in part and denied in part. Portions not released are being withheld pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.

You must send a check for \$[ ] made payable to the United States Treasurer by mail to the above address. Manual search and review time is billed per quarter hour based on the personnel category of the person conducting the search. Fees for search services range from \$5.00 per quarter hour to \$20.00 per quarter hour. Direct costs are billed for computer searches and in certain other circumstances. Photocopying is billed at \$.15 per page. 29 C.F.R. §1610.15. The attached Comments page will further explain any direct costs assessed. The fee has been computed as follows:

Commercial use requests: [ ] pages of photocopying; [ ] quarter hour(s) of [ ] review time; and [ ] quarter hour(s) of [ ] search time; Direct costs are billed in the amount of [ ] for [ ].

Requests by educational or noncommercial scientific institutions or representatives of the news media: [ ] pages of photocopying. The first 100 pages are provided free of charge.

All other requests:  pages of photocopying and  quarter hour(s) of  search time. Direct costs are billed in the amount of  for . The first 100 pages and 2 hours of search time are provided free of charge.

- The disclosed records are enclosed. No fee is charged because the cost of collecting and processing the chargeable fee equals or exceeds the amount of the fee. 29 C.F.R. § 1610.15(d).
- The disclosed records are enclosed. Photocopying and search fees have been waived pursuant to 29 C.F.R. § 1610.14.
- You may appeal this decision by writing within thirty days of receipt of this letter to the Office of Legal Counsel, FOIA Programs, Equal Employment Opportunity Commission, 131 M Street, N.E., Suite 5NW02E, Washington, D.C. 20507. Your appeal will be governed by 29 C.F.R. § 1610.11.
- See attached Comments page for further information.

Sincerely,



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Stephanie D. Garner  
Assistant Legal Counsel FOIA Programs

Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

- |  |   |
|--|---|
| <input type="checkbox"/> (2)   | <input type="checkbox"/> (6)                  |
| <input type="checkbox"/> (3) (A)(i)  | <input type="checkbox"/> (7)(A)               |
| <input type="checkbox"/> Section 706(b) of Title VII                                     | <input type="checkbox"/> (7)(B)               |
| <input type="checkbox"/> Section 709(e) of Title VII                                     | <input type="checkbox"/> (7)(C)               |
| <input type="checkbox"/> Section 107 of the ADA  | <input type="checkbox"/> (7)(D)               |
|  | <input type="checkbox"/> Other (see attached) |
| <input type="checkbox"/> (3)(A)(ii)  |   |
| <input type="checkbox"/> 41 U.S.C. §253b(m) of the<br>National Defense Authorization Act |   |
| <input type="checkbox"/> (4)   |   |
| <input type="checkbox"/> (5)   |   |

**Re: FOIA No.: 820-2011-142086**

Comments

This is in response to your Freedom of Information Act (FOIA) request. In your request you seek consent decrees containing "cy pres" provisions regarding the disbursement of leftover settlement funding to non-profits if some members of a plaintiff class cannot be located, has been denied.

You stated that you fall under the Educational Institution category regarding your FOIA request. After several emails and correspondence you currently have not provided the information needed to fits the Educational Institution under FOIA and the Office of Management and Budget (OMB) guidelines.

We hope this information has been helpful to you.



U.S. Department of Justice

Civil Rights Division

11-00402-F  
NDH:TC

Freedom of Information/Privacy  
Acts Branch, BICN 3219  
950 Pennsylvania Ave., NW  
Washington, DC 20035

Ms. Alison Somin  
19 N. Garfield Street  
Arlington, VA 22201

**OCT 20 2011**

Dear Ms. Somin:

This is in further response to your Freedom of Information Act request seeking information pertaining to settlement agreements or consent decrees with *cy pres* provisions, or provisions that allow disbursement of leftover settlement funds to non-profits if the members of a plaintiff class cannot be found. This request is for all records dated from 2000 to the present.

Enclosed are 130 pages, released in full, of copies of recent settlement agreements or consent decrees in the following cases along with two responsive documents:

- A) *United States v. AIG Federal Savings Bank*, 1:10-cv-00178 (D. Del.)
- B) *United States v. Donald Sterling, et al.*, 2:06-cv-04885 (C.D.Cal.)
- C) *United States v. QuikTrip Corporation*, 8:10-cv-00262 (D. Neb.)
- D) *United States v. Georgian Manor Condominium Association*, 1:09-cv-02459 (N.D. Ga.)
- E) Two letters describing the Civil Rights Division's general policy pertaining to disbursement of leftover settlement funds:

(1) Letter to Senator Charles Grassley dated August 10, 2010

(2) Letter to Mr. Chris Byrnes dated January 14, 2011

Further, the Division does not have any responsive records regarding your requests for internal written policies or guidelines describing the Department's procedures for:

- (a) "any and all documents specifying, explaining or referring to what procedures DOJ

uses in such cases to ensure that such distributions do not prevent members of a plaintiff class from receiving adequate relief;"

(b) "any and all documents that specify, explain, or refer to the procedures CRD<sup>1</sup> uses to choose the non-profit recipients of such distributions;" and

(c) "any and all documents that specify, refer to, or explain what procedures, if any, CRD uses to monitor the non-profit recipients' use of settlement funds."

As you are aware, the Freedom of Information Act and its implementing regulations provide for the assessment of fees. In accordance with 28 C.F.R. § 16.11, federal agencies may assess search, review, and duplication fees. Search and review fees may be assessed at the cost of \$4.00 for each quarter hour for searches by clerical personnel, \$7.00 per quarter hour for professional personnel, and \$10.25 per quarter hour for the search or review time required of managerial personnel. The first two hours search time is free in accordance with Department regulations.

To date, the Division has expended 21 hours for search time by professional personnel and 6 hours of search time by clerical personnel which has not yet been charged.

The estimated search time to locate and review for "all documents showing amounts of payments made to non-profits under such agreements" and for "all documents revealing the identities of the recipients of such funds," is estimated to take between 6 to 8 weeks of clerical, professional and managerial time. The involves a records request to Federal Records Center storage facilities to obtain the litigation case files for the past ten years. Most litigation files are voluminous and we estimate it could include more than 500 hundreds boxes of records to review for information that may be potentially responsive to this inquiry. Additionally, it is estimated it would take another 6 to 8 weeks to search for "all records of communications that CRD employees have had with employees of the non-profit recipients of these distributions." This request is to include emails, telephone calls, letters, meetings, and communications from non-profit organizations asking to receive settlement funds. Therefore, we estimate the approximate number of the hours necessary to conduct these three searches is as follows:

Clerical Personnel Search	86 hours
Professional Personnel search	4,021 hours
Managerial Personnel search and review	100 hours
For applicable privileges/exemptions	<u>100 hours</u>
Total	4,307 hours

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<sup>1</sup> Although "CRD" was used as an abbreviation for the Civil Rights Division a number of years ago, the abbreviation now generally used is "CRT."

Clerical search = \$16.00 per hour X 84 hours = (86 hrs with first 2 hours free = 84 hrs)	\$ 1,344.00
Professional personnel search = \$28.00 X 4021 hours =	112,588.00
Managerial search/review = \$41.00 X 200 hours =	<u>8,200.00</u>
	\$122,132.00

Duplication costs are calculated at the rate of \$0.10 per duplicated page. The standard Department of Justice Record Management Division estimate for a box of documents with folders is 2000 pages per box. Although we do not believe there will be a large number of responsive pages for duplication, we estimate searching a few hundred boxes of files, if not more, from the Federal Records Center. We estimate the search could result in copying 2,500 pages, so that the copying charges would be \$250.00 with the first 100 pages free. We have provided 132 pages with this letter with no charge.

The total estimated cost for search, review and duplication would be:

\$122,132.00
<u>250.00</u>
\$122,382.00

Please note that this is an estimate only and the actual cost may total more in the final calculation.

We will await your payment of the \$122,382.00 fee assessed for the search, review, and duplication of the requested records before beginning to retrieve and search for the requested records. Please make your check or money order payable to the "U. S. Treasury" and mail the payment to: FOI/PA Branch, Civil Rights Division, United States Department of Justice, P. O. Box 65310, Washington, DC 20035-5310.

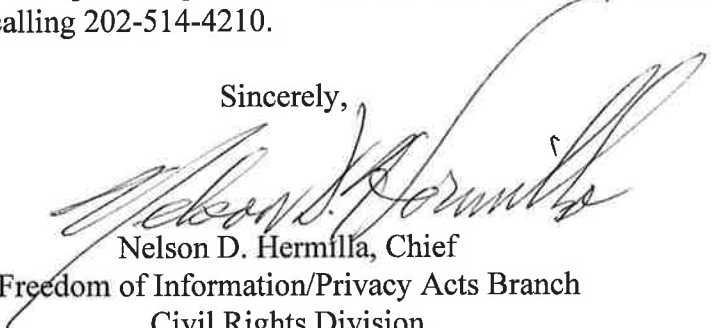
Your last request is for access to "all records showing that a CRD employee previously worked at an organization that has been the recipient of such settlement funds . . . and records showing that a CRD employee later became an employee of an organization that . . . received such settlement funds." The Freedom of Information Act requires that a request must "reasonably describe the records sought." 28 C.F.R. §16.3(b). The FOIA creates a right of access to records but the FOIA does not require Federal agencies to answer questions posed as a FOIA request. Nor does the FOIA require the Civil Rights Division to conduct research, analyze data, answer written questions, or in any way create records in order to respond to a Freedom of Information Act request. Once you have identified the particular organizations in which you're interested, you may resubmit your FOIA request for these documents. You should be aware that personnel records are not generally maintained by the Civil Rights Division for a 10 year period, so the Civil Rights Division may only have personnel records, for various periods ranging from 6 months to 2 years, 5 years, etc., depending on the specific type of record. The records could be located at another federal agency for other federal employment or you may need to contact the



National Personnel Records Center for older employment records. Additionally, as the Civil Rights Division has several hundred employees, it may be beneficial to narrow the scope of your request and identify those specific employees and organizations for which you wish a search to be conducted. For example, you may wish to consider a particular category of employees, such as attorneys and not including paralegals or clerical staff, as well as a particular Section, for the search as well as narrowing the time frame, so the search and review fees may be reduced.

We'll be glad to continue to work with you to find options that might reduce this overall cost as to narrow or withdrawing the scope and time frame of your request. Please do not hesitate to contact me by calling 202-514-4210.

Sincerely,



Nelson D. Hermilla, Chief  
Freedom of Information/Privacy Acts Branch  
Civil Rights Division



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 14 2011

Chris Byrnes  
Senior Attorney-Advisor to the Office of the  
Staff Director  
U.S. Commission on Civil Rights  
624 Ninth Street, NW  
Washington, DC 20425

Dear Mr. Byrnes:

This letter responds to Mr. Martin Dannenfelsler's letter of December 14, 2010, inquiring about particular settlement agreements and consent decrees of the Civil Rights Division, and requesting information and documents. As discussed, in light of the extensive nature of the request, the length of time to which the request pertains, and the intervening holidays, we have requested more time to fully respond to the Commission's inquiry. In the interim, however, the Division has prepared this response to inform the Commission about the Division's settlement policies and practices, particularly regarding distributions of unclaimed settlement funds to nonprofit organizations.

For at least the last 20 years, with a brief hiatus,<sup>1</sup> the Division's long-standing practice had been to agree – in appropriate cases, and after all identified victims have been compensated - that unclaimed settlement funds may be disbursed to nonprofit organizations to help address discriminatory practices. In settling pattern or practice cases of systemic discrimination, the Division seeks both compensation for individual victims harmed by the unlawful practices, and injunctive relief to correct or prevent discrimination. Unfortunately, it is often extraordinarily difficult or even impossible to identify all of the possible victims in certain cases, due to the nature of the discriminatory practices, the mobility of the possible victims or both.

Accordingly, at times, the Division has entered into consent orders requiring defendants to establish a settlement fund to compensate victims who will be identified post-settlement. In such cases, the defendants deposit a negotiated amount into an interest-bearing escrow account and provide notice targeted to reach possible victims. After the notice period

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<sup>1</sup> From May 2004 to the fall of 2009, the Division followed a different practice, including in its consent orders the requirement that any unclaimed settlement funds must revert to the defendants.

ends and victims have been identified, the United States submits the proposed disbursements to the Court for approval. Factors relevant to the appropriate amount of settlement funds include relevant case law, settlement amounts in similar lawsuits, and a variety of other pertinent factors including the scope of the violation, the potential number of victims, and the egregiousness of the discriminatory conduct at issue.

If unclaimed monies remain in the settlement fund after all identified victims have been paid, the court may order that unclaimed funds be paid to a nonprofit organization that is dedicated to addressing and preventing the kind of discriminatory practices that gave rise to the lawsuit.<sup>2</sup> This practice is analogous to the *cy pres* distribution of unclaimed funds in class action settlements,<sup>3</sup> and the case law in that context establishes the appropriateness of such distributions in a context, like fair housing, fair lending and accessibility cases, where compensation of victims and deterrence are purposes of the underlying statutes. During the period from the early 1990s until 2004 and then again since fall, 2009, the Division has entered into such court-ordered settlements. Under the Division's current practice, the defendants propose the organization that would receive unclaimed funds, and if the United States approves, the parties jointly submit the defendant's proposal to the court for final approval.

In the fall of 2009, the Division returned to its longstanding practice of distributing the remaining funds to further the purposes of the consent order and the underlying statutes. At the same time, the Division also resumed its practice of consistently entering into consent decrees with requirements for defendants to establish consumer financial education funds in its fair lending settlements. The Division views these funds as important and effective remedial measures, in light of the well-documented fact that the lending process is a complicated one, even for educated consumers. As a result, improved financial literacy and increased information about the lending process can help protect consumers from becoming victims of lending discrimination.<sup>4</sup>

Since the Division's return in the fall of 2009 to the policy of distributing settlement fund remainders to organizations that further the goals of the consent order and underlying

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<sup>2</sup> Although there is no formal internal guidance from the Deputy Attorney General or the Assistant Attorney General for Civil Rights regarding the designation of qualified organizations to which disbursements may be paid to further the goals of the consent decree, relevant case law guides our determination of the appropriate form and amount of relief.

<sup>3</sup> In the class action context, a *cy pres* distribution refers to a procedure whereby "the court, guided by the parties' original purpose, directs that the unclaimed funds be distributed 'for the indirect prospective benefit of the class.'" See *Powell v. Georgia-Pacific Corp.*, 119 F.3d 703, 706 (8th Cir. 1997) (quoting 2 Newberg and A. Conte, *Newberg on Class Actions*, Sect. 10.17 at 10-41 (3d. Ed. 1992)).

<sup>4</sup> See, e.g., <http://islandia.law.yale.edu/ayers/forbes.0609.html>. See also Ian Ayres, *Further Evidence of Discrimination in New Car Negotiations and Estimates of Its Causes*, 94 *Mich. L. Rev.* 109 (1995); Ian Ayers & Peter Siegelman, *Race and Gender Discrimination in Bargaining for a New Car*, 85 *Am. Econ. Rev.* 304 (1995).

statutes, the Division has entered into a total of 4 consent decrees that require the payment of left-over funds to be distributed to third party organizations:<sup>5</sup>

- In *United States v. QuikTrip Corporation* (D. Neb.), the Division reached a comprehensive settlement under the Americans with Disabilities Act with QuikTrip Corporation, a private company that owns and operates more than 550 gas stations, convenience stores, travel centers, and truck stops in the Midwest, South and Southwestern United States. Under the consent decree, QuikTrip will create a \$1.5 million compensatory damages fund for individuals who were victims of discrimination based on disability. Any remaining funds unclaimed by victims will be paid to nonprofit organizations serving the interests of individuals with disabilities. Two organizations were designated by the defendants with agreement by the Division, and approval by the court, to receive any remaining funds: Wounded Warriors, an organization serving disabled veterans, and Centers for Independent Living.
- In *United States v. Sterling* (C.D. Cal.) \$40,000 of the \$2,625,000 victim fund will be divided between the victim fund administrator and the Southern California Housing Rights Center. The Housing Rights Center was chosen pursuant to a provision in the *Sterling* consent decree, which directed that any money remaining in the fund after all victims of discrimination have been compensated should be disbursed to a qualified organization mutually agreed upon by the United States and Defendants, subject to the approval of the Court, for the purpose of conducting fair housing enforcement or educational activities in Los Angeles County, with a particular focus on the City of Los Angeles. The Housing Rights Center is a well-established fair housing organization. While the *Sterling* consent order does not provide for any specific reporting or auditing requirements for the \$40,000 disbursement, as a recipient of a FY 2009 Fair Housing Initiatives Program (FHIP) Award from the Department of Housing and Urban Development (HUD), the Housing Rights Center's programs are monitored by HUD.
- In *United States v. AIG Federal Savings Bank* (D. Del.), the consent decree requires defendants to provide a minimum of \$1 million, including any money remaining in the victim fund after all victims of discrimination are compensated, to qualified organizations to provide credit counseling, financial literacy, and other related educational programs. The *AIG Federal Savings Bank* consumer education funds have not yet been disbursed. The provisions in our consent decrees requiring funding for consumer financial education are discussed more fully below.
- In *United States v. Georgian Manor Condo Ass'n, Inc.* (N.D. Ga.), in the event that less than the total \$30,000 in the Settlement Fund is distributed to aggrieved persons, the remainder shall be distributed to qualified organization(s) mutually agreed upon by the United States and the defendants, subject to approval of the court, for the purpose of

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<sup>5</sup> The Division has entered into numerous other pattern or practice consent decrees since the fall of 2009, but in those cases, either all the victims were identified in the decree itself leaving no need for a victim fund, or the decree was negotiated primarily between 2004 and Fall 2009, when the policy of returning unclaimed settlement funds to defendants remained in effect.

conducting fair housing enforcement or educational activities in the Atlanta metropolitan area.<sup>6</sup>

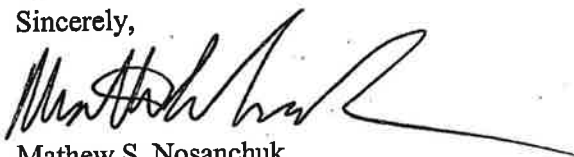
- During calendar years 2008, 2009 and 2010, a total of \$15,924,100 has been paid into settlement funds in pattern or practice cases brought under the Fair Housing Act and ECOA. Of this amount, \$10,061,297 has been paid to individual victims of discrimination by defendants; \$397,863 has been returned to defendants; \$40,000 has been distributed to an outside organization (see above); and the remaining \$5,424,940 is pending distribution

We are confident that there is no danger that the consumer financial education requirements will divert funds from identified individual victims who can be located. For example, in the *United States v. Nara Bank, et al.* (C.D. Cal.) case, the financial literacy provisions are entirely separate from the victim compensation fund, and in the *AIG FSB* case, the consent order specifically provides that any remainder in the settlement fund that is used for consumer financial education purposes shall be distributed only after all of the efforts to identify and compensate individual victims are completed. Further, in fair lending settlements involving defendants that are depository institutions supervised by federal bank regulatory agencies, the Division has a long history of working cooperatively with those banking regulatory agencies to ensure appropriate oversight of the defendant banks in implementing and executing the programs required by the consent orders.

In sum, the current policy regarding the Division's settlements and consent decrees reflects a return in 2009 to the longstanding practice that had been in effect in the Division since the early 1990s. The practice was and continues to be successful in fostering the goals of our civil rights laws and preventing further violations through education. We are confident that the programs are administered appropriately and do not divert compensation intended for victims.

We hope this information will be useful in providing a framework for considering the Division's enforcement policies and practices as they pertain to nonprofit organizations. As you determine the need for additional information, please do not hesitate to contact this office.

Sincerely,



Mathew S. Nosanchuk  
Senior Counselor to the  
Assistant Attorney General

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<sup>6</sup> The complaints and consent orders in the *Sterling*, *AIG FSB* and *Georgian Manor Condo* cases, as well as all other Civil Rights Division Housing and Civil Enforcement Section cases referenced in this letter, are available at <http://www.justice.gov/crt/about/hce/caselist.php>. The consent order in the *QuikTrip* case is available at [http://www.ada.gov/quiktrip\\_info\\_index.htm](http://www.ada.gov/quiktrip_info_index.htm).



**U.S. Equal Employment Opportunity Commission  
Office of Legal Counsel**

131 M St. NE  
Washington, D.C. 20507  
(202) 663-4500  
(202) 663-4639 FAX  
(202) 663-7026 TTY

**NOV 23 2011**

Alison Somin  
19 North Garfield Street  
Arlington, Virginia 22201

**Re: FOIA No.: 820-2011-142086  
FOIA Appeal No. 820-2011-149011**

Dear Ms. Somin:

Your appeal under the Freedom of Information Act (FOIA) received on October 24, 2011 has been processed. The paragraph(s) checked below apply:

- The initial determination issued on your request is completely reversed and your appeal is granted.
- The initial determination issued on your request is affirmed and your appeal is denied.
  - For reasons further explained in an attachment to this letter.
  - Pursuant to the FOIA Exemptions cited in the initial denial of your request. The attachments to this letter explain the use of these exemptions in more detail.
  - Pursuant to the FOIA Exemptions indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- The initial determination issued on your request is partially affirmed/reversed/remanded and your appeal is granted/denied/remanded in part.
  - For administrative reasons further explained in an attachment to this letter.
  - Pursuant to the FOIA Exemptions cited in the initial denial of your request.
  - Pursuant to the FOIA Exemptions indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- Your appeal has been remanded in its entirety. An attachment to this letter further explains the decision to remand your appeal.
- Your appeal has been closed for administrative reasons. An attachment to this letter further explains this closure.

- You must send a check for \$ made payable to the United States Treasurer to the above address. Manual search and review services are billed according to the personnel category of the person conducting the search. Fees for search services range from \$5.00 per quarter hour to \$20.00 per quarter hour. Direct costs are billed for computer searches and in certain other circumstances. Photocopying is billed at \$.15 per page. 29 C.F.R. § 1610.15. The attached Comments page will further explain any direct costs assessed.
- The records disclosed on appeal are enclosed. No fee is charged because the Commission shall not charge a fee  for review at the administrative appeal level of an exemption already applied, or  the cost of processing such fee equals or exceeds the amount of the fee. 29 C.F.R. §§ 1610.15 (a)(1) and (d).
- You should contact the District Office which responded to your request to obtain the documents disclosed on appeal. The District Director will determine whether fees will be assessed.
- The records disclosed on appeal are enclosed. No fee is charged because the cost of collecting and processing the chargeable fee equals or exceeds the amount of the fee. 29 C.F.R. § 1610.15(d).
- If you are dissatisfied with this decision, you may file a civil action in the United States district court in the district where you reside or have your principal place of business, where the agency records are situated, or in the District of Columbia.
- See the attached Comments page for further information.

Sincerely,

Thomas J. Schlageter  
Assistant Legal Counsel/AELD

Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

- |  |   |
|--|---|
| <input type="checkbox"/> (2)   | <input type="checkbox"/> (6)                  |
| <input type="checkbox"/> (3)(A)(i)   | <input type="checkbox"/> (7)(A)               |
| <input type="checkbox"/> Section 706(b) of Title VII                                     | <input type="checkbox"/> (7)(B)               |
| <input type="checkbox"/> Section 709(e) of Title VII                                     | <input type="checkbox"/> (7)(C)               |
| <input type="checkbox"/> Section 107 of the ADA  | <input type="checkbox"/> (7)(D)               |
|  | <input type="checkbox"/> Other (see attached) |
| <input type="checkbox"/> (3)(A)(ii)  |   |
| <input type="checkbox"/> 41 U.S.C. §253b(m) of the<br>National Defense Authorization Act |   |
| <input type="checkbox"/> (4)   |   |
| <input type="checkbox"/> (5)   |   |

cc: Stephanie D. Garner  
Assistant Legal Counsel/FOIA Programs

**Re: FOIA No.: 820-2011-142086**  
**FOIA Appeal No. 820-2011-149011**

### COMMENTS

You filed a FOIA request with the Commission on June 17, 2011. That request identified numerous categories of documents for production. The Commission advised you via August 15, 2011 letter that the estimated cost of producing the requested documents would be at least \$5,000. The time required to search relevant records in all EEOC District Offices throughout the nation for a period of ten years is substantial. By way of e-mail on August 18, 2011, you asked if the Commission would waive its search fees because your research “would benefit an educational institution” and/or would “contribute significantly to the public understanding of the operations and activities of the government and is not primarily in the commercial interest of either one of us . . . .” In response to EEOC inquiry, you subsequently forwarded additional information to explain and justify your request for a fee waiver. After consideration of that information, the EEOC denied your fee waiver request on September 21, 2011. You have now appealed that denial.

You request that we not charge a search fee because your research would benefit an educational institution. Section 552(a)(4)(A)(ii)(II) states that fees shall be limited to reasonable standard charges for document duplication when the request “is made by an educational . . . institution, whose purpose is scholarly or scientific research.” You have not established that your request is made on behalf of such an institution. Although you show that you are working with Professor Gail Heriot of the University of San Diego, there is no evidence that either of you are making this FOIA request on behalf of USD or any other institution. Professor Heriot has not received funding for this project from USD or any other entity which might fall within the terms of the aforementioned statute. As noted in the OMB Fee Guidelines, the educational institution fee provision does not cover an individual’s research projects; a FOIA request must be made by the educational institution which is pursuing a scholarly research goal. 52 Fed. Reg. at 10,014 and 10,018; *Nat’l Sec. Archive v. DOD*, 880 F.2d 1381, 1383-85 (D.C. Cir. 1989). You have not established that your FOIA request falls within those requirements.

You also request that we waive or reduce the fee under 5 U.S.C. § 552(a)(4)(A)(iii). That section provides for a waiver or reduction of fees “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor.” *Id.* The EEOC’s fee waiver regulation is consistent with this. *See* 29 C.F.R. § 1610.14(a). In determining whether a particular fee waiver request satisfies the preceding statutory and regulatory criteria, the following six factors must be analyzed: (1) does the subject matter of the requested records, in the context of the request, specifically concern identifiable operations or activities of the government; (2) are the discloseable portions of the requested documents meaningfully informative in relation to the subject matter of the request; (3) will disclosure contribute to public understanding, as compared to the understanding of the requesting individual or that of a narrow group; (4) will disclosure contribute “significantly” to public understanding of government operations or activities; (5) will disclosure further a commercial interest of the requestor; and (6) will disclosure further primarily the requestor’s commercial interest or the public interest. *See Stewart v. U.S. Dep’t of the Interior*, 554 F.3d 1236, 1242 (10<sup>th</sup> Cir. 2009); *Judicial Watch, Inc. v. DOJ*, 365 F.3d 1108, 1126 (D.C. Cir 2004); *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285-86 (9<sup>th</sup> Cir. 1987).

Your appeal seeking waiver of the fees associated with your FOIA request is denied because you have failed to establish that disclosure of the requested information is likely to contribute significantly to



public understanding of the operations or activities of government (factors 1-4 above). Our decision is based primarily on the following reasons.

First, you have not established that disclosure of the requested documents will contribute to public understanding as compared to your individual understanding of government operations or activities. The relevant inquiry is whether you will disseminate the disclosed records to a reasonably broad audience of persons interested in the subject. *Carney v. DOJ*, 19 F.3d 807, 814 (2<sup>nd</sup> Cir. 1994). You have not established that you have been commissioned by any reputable source to prepare a publication based upon the requested information. You state that you have no idea what type of article or other form of publication might result from disclosure of the requested information. You also explain the difficulty you will face in procuring a publisher for whatever work product you are able to develop. Therefore, there is no basis upon which to conclude that you will author a publication, let alone that any such publication will reach a significant portion of the public. The mere intent to author a work or to submit an authored work to unnamed law reviews, newspapers or other media is not sufficient to establish probable distribution to the public, *Oglesby v. U.S. Dep't of the Army*, 920 F.2d 57, 66 (D.C. Cir. 1990); *Larson v. CIA*, 843 F.2d 1481, 1483 & n.5 (D.C. Cir. 1988); *Hall v. CIA*, 2005 W.L. 850379 at \*7 (D.D.C. April 13, 2005); *Citizens Progressive Alliance v. U.S. Bureau of Indian Affairs*, 241 F.Supp.2d 1342, 1367 (D.N.M. 2002); *Frazzini v. DOJ*, 1991 WL 74649 at \*5 (N.D. Ill. May 2, 1991). Moreover, mere placement of a published work in a library does not entitle one to a fee waiver. *Van Fripp v. Parks*, No. 97-0159, slip op. at 12 (D.D.C. March 16, 2000); *Klamath Water Users Protective Ass'n*, No. 96-3077, slip op. at 47 (D. Or. June 19, 1997). You simply have not shown that your potential work will reach a significant portion of the public.

Second, you have not established that disclosure of the requested documents will contribute "significantly" to public understanding of government activities. To justify a fee waiver, the requested disclosure must add to the public understanding of government activities in light of the readily available information from other sources. *Sierra Club Legal Def. Fund*, No. 93-35383, slip op. at 4 (9<sup>th</sup> Cir. August 29, 1994). In other words, disclosure must significantly enhance public understanding as compared to the public's understanding prior to disclosure. *McDade v. EOUSA*, No. 03-1946, slip op. at 9 (D.D.C. Sept. 29, 2004). You have established the existence of substantial prior public discussion of the *cy pres* doctrine, including law review and newspaper commentary, outlining positive and negative aspects of applying the doctrine in lawsuits brought by private or public parties. You have not established how disclosure of the information requested from the EEOC would enhance the public's current understanding of the *cy pres* doctrine or its application.

The preceding failures are sufficient to establish that disclosure of the requested information is not in the public interest as required by 5 U.S.C. § 552(a)(4)(A)(iii) and therefore we deny your appeal of the Commission's rejection of your request for waiver of all or a portion of the fees normally charged pursuant to the FOIA.

U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D. C. 20530

AUG 10 2010

The Honorable Charles E. Grassley  
United States Senate  
Washington, D.C. 20510

Dear Senator Grassley:

This responds to your letter, dated July 8, 2010, to the Attorney General. You requested information about the Civil Rights Division's practices regarding settlements in civil rights pattern or practice cases. You also referenced two recent settlements under the Fair Housing Act, 42 U.S.C. § 3614(a), and the Equal Credit Opportunity Act, 15 U.S.C. § 1691e(h) ("ECOA") and asked about the Division's recent return to its long-standing practice of agreeing – upon court approval and after all identified victims have been compensated – that unclaimed settlement funds may be disbursed to non-profit organizations to help address discriminatory practices.

In settling pattern or practice cases of systemic discrimination, the Division seeks both compensation for individual victims harmed by the unlawful practices, and injunctive relief to correct or prevent discrimination. Unfortunately, it is often extraordinarily difficult or even impossible to identify all of the possible victims in certain cases, due to the nature of the discriminatory practices, the mobility of the possible victims or both. Accordingly, the Division enters into consent orders requiring defendants to establish a settlement fund to compensate victims who will be identified post-settlement. In such cases, the defendants deposit a negotiated amount into an interest-bearing escrow account and provide notice targeted to reach possible victims. After the notice period ends, and victims have been identified, the United States submits the proposed disbursements to the Court for approval. Factors relevant to the appropriate amount of settlement funds include relevant case law, settlement amounts in similar lawsuits, and a variety of other pertinent factors including the scope of the violation, the potential number of victims, and the egregiousness of the discriminatory conduct at issue.

If unclaimed monies remain in the settlement fund after all identified victims have been paid, the court may order that unclaimed funds be paid to a non-profit organization that is dedicated to addressing and preventing the kind of discriminatory practices that gave rise to the lawsuit.<sup>1</sup> This practice is analogous to the *cy pres* distribution of unclaimed funds in class action

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<sup>1</sup> Although there is no formal internal guidance from the Deputy Attorney General or the Assistant Attorney General for Civil Rights regarding the designation of qualified organizations

The Honorable Charles E. Grassley  
Page 2.

settlements,<sup>2</sup> and the case law in that context establishes the appropriateness of such distributions in a context, like fair housing, fair lending and accessibility cases, where compensation of victims and deterrence are purposes of the underlying statutes. During the period from the early 1990s until 2004 and then again since Fall 2009, the Division has entered into such court-ordered settlements. Under the Division's current practice, the defendants propose the organization that would receive unclaimed funds, and if the United States approves, the parties jointly submit the defendant's proposal to the court for final approval.

From May 2004 to the fall of 2009, the Division followed a different practice, including in its consent orders the requirement that any unclaimed settlement funds must revert to the defendants.

In the fall of 2009, the Division returned to its longstanding practice of distributing the remaining funds to further the purposes of the consent order and the underlying statutes. At the same time, the Division also resumed its practice of consistently entering into consent decrees with requirements for defendants to establish consumer financial education funds in its fair lending settlements. The Division views these funds as important and effective remedial measures, in light of the well-documented fact that the lending process is a complicated one, even for educated consumers. As a result, improved financial literacy and increased information about the lending process can help protect consumers from becoming the victims of lending discrimination.<sup>3</sup>

Since the Division's return in the fall of 2009 to the policy of distributing settlement fund remainders to organizations that further the goals of the consent order and underlying statutes, the Division has entered into a total of 3 consent decrees that require the payment of left-over funds to be distributed to third party organizations:<sup>4</sup>

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to which disbursements may be paid to further the goals of the consent decree, relevant case law guides our determination of the appropriate form and amount of relief.

<sup>2</sup> In the class action context, a *cy pres* distribution refers to a procedure whereby the "the court, guided by the parties' original purpose, directs that the unclaimed funds be distributed 'for the indirect prospective benefit of the class.'" See *Powell v. Georgia-Pacific Corp.*, 119 F.3d 703, 706 (8th Cir. 1997) (quoting 2 Newberg and A. Conte, *Newberg on Class Actions*, Sect. 10.17 at 10-41 (3d. Ed. 1992)).

<sup>3</sup> See, e.g., <http://islandia.law.yale.edu/ayres/forbes0609.html>. See also Ian Ayres, *Further Evidence of Discrimination in New Car Negotiations and Estimates of Its Cause*, 94 *Mich. L. Rev.* 109 (1995); Ian Ayres & Peter Siegelman, *Race and Gender Discrimination in Bargaining for a New Car*, 85 *Am. Econ. Rev.* 304 (1995).

<sup>4</sup> The Section has entered into numerous other pattern or practice consent decrees since the fall of 2009, but in those cases, either all the victims were identified in the decree itself leaving no need for a victim fund, or the decree was negotiated primarily between 2004 and Fall 2009, when the policy of returning unclaimed settlement funds to defendants remained in effect.

- In *United States v. QuikTrip Corporation*, the Division reached a comprehensive settlement under the Americans with Disabilities Act with QuikTrip Corporation, a private company that owns and operates more than 550 gas stations, convenience stores, travel centers, and truck stops in the Midwest, South and Southwestern United States. Under the consent decree, QuikTrip will create a \$1.5 million compensatory damages fund for individuals who were victims of discrimination based on disability. Any remaining funds unclaimed by victims will be paid to non-profit organizations serving the interests of individuals with disabilities. Two organizations were designated to receive any remaining funds: Wounded Warriors, an organization serving disabled veterans, and Centers for Independent Living.
- In *United States v. Sterling* (C.D. Cal.) \$40,000 of the \$2,625,000 victim fund will be divided between the victim fund administrator and the Southern California Housing Rights Center. The Housing Rights Center was chosen pursuant to a provision in the *Sterling* consent decree, which directed that any money remaining in the fund after all victims of discrimination have been compensated should be disbursed to a qualified organization mutually agreed upon by the United States and Defendants, subject to the approval of the Court, for the purpose of conducting fair housing enforcement or educational activities in Los Angeles County, with a particular focus on the City of Los Angeles. The Housing Rights Center is a well-established fair housing organization that is not affiliated with ACORN. While the *Sterling* consent order does not provide for any specific reporting or auditing requirements for the \$40,000 disbursement, as a recipient of a FY 2009 Fair Housing Initiatives Program (FHIP) Award from the Department of Housing and Urban Development (HUD), the Housing Rights Center's programs are monitored by HUD.
- In *United States v. AIG Federal Savings Bank* (D. Del.),<sup>5</sup> as your letter notes, the consent decree requires defendants to provide a minimum of \$1 million, including any money remaining in the victim fund after all victims of discrimination are compensated, to qualified organizations to provide credit counseling, financial literacy, and other related educational programs. The *AIG Federal Savings Bank* consumer education funds have not yet been disbursed. The provisions in our consent decrees requiring funding for consumer financial education are discussed more fully below.
- During calendar years 2008, 2009 and 2010 as of July 29, 2010, a total of \$12,848,500 has been paid into settlement funds in pattern or practice cases brought under the Fair Housing Act and ECOA. Of this amount, \$4,980,000 has been paid to individual victims of discrimination by defendants; \$226,500 has been returned to

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<sup>5</sup> The complaints and consent orders in these cases, as well as all other Division cases referenced in this letter, are available at <http://www.justice.gov/crt/housing/fairhousing/caseslist.htm>.

The Honorable Charles E. Grassley

Page 4

defendants; \$40,000 has been distributed to an outside organization (see above); and the remaining \$7,602,000 is pending distribution.<sup>6</sup>

Your letter also references two recent fair lending cases in which the consent orders require the defendants to fund specified levels of consumer financial education. In *United States v. Nara Bank, et al.* (C.D. Cal.), the consent order provides that the defendant shall dedicate "at least 400 staff hours" to an ongoing financial literacy training effort and shall maintain a financial commitment of "at least One Hundred Thousand Dollars" each year of the agreement to a combination of specified financial education programs. The *AIG Federal Savings Bank* consent order also provides that the defendants shall propose the organizations that will receive these funds, shall consult with the United States and shall obtain Court approval for distribution of the fund. As with all of the Division's cases, the specific terms of the consent order, including the order's provisions for selecting organizations to receive the funds, were negotiated between the parties in the context of the entire consent order. In both of these cases, the consent orders build on defendants' pre-existing consumer financial education commitments in an effort to achieve the maximum efficiency and effectiveness for these programs.

We are confident that in neither case is there any danger that the consumer financial education requirements will divert funds from identified individual victims who can be located. In the *Nara Bank* case, the financial literacy provisions are entirely separate from the victim compensation fund, and in the *AIG FSB* case, the consent order specifically provides that any remainder in the settlement fund that is used for consumer financial education purposes shall be distributed only after all of the efforts to identify and compensate individual victims are completed. Further, in fair lending settlements involving defendants that are depository institutions supervised by federal bank regulatory agencies, the Division has a long history of working cooperatively with those agencies to ensure appropriate oversight of the defendant banks in implementing and executing the programs required by the consent orders.

In sum, the policy change of 2009 reflected a return to the longstanding practice that had been in effect in the Division since the early 1990s. The practice was and continues to be successful in fostering the goals of our civil rights laws and preventing further violations through education. We are confident that the programs are administered appropriately and do not divert compensation intended for victims.

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<sup>6</sup> Your letter asks whether, prior to the selection of an organization for distribution from a settlement fund remainder, the Division consults with the Office for Victims of Crime within the Department of Justice's Office of Justice Programs. The Office for Victims of Crime administers the Crime Victims Fund, a fund that provides money for states and victim assistance programs that compensate and assist victims of crimes such as domestic violence, child abuse, and sexual assault. The Division does not engage in such consultation, but rather consults with other agencies and organizations engaged directly in work related to the statutes underlying our cases, in order to draw on resources and expertise in the areas directly related to the remedial issues in those cases.

The Honorable Charles E. Grassley

Page 5

We hope this information is helpful. Please do not hesitate to contact this office if we may be of further assistance with this, or any other matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald Weich".

Ronald Weich  
Assistant Attorney General

**Department of Justice  
EXECUTIVE SECRETARIAT  
CONTROL SHEET**

**DATE OF DOCUMENT:** 07/08/2010  
**DATE RECEIVED:** 07/08/2010

**WORKFLOW ID:** 1894162  
**DUE DATE:** 7/23/2010

**FROM:** The Honorable Charles E. Grassley  
United States Senate  
Washington, DC 20510

**TO:** AG

**MAIL TYPE:** Congressional Oversight

**SUBJECT:** (Copy rec'd via email from OLA) Expressing concerns involving the recent change in policy regarding the use of Settlement Funds and consent orders within the Civil Rights Division. Stating that the recent change in policy appears to be using consent orders and settlement funds to fund outside organizations unconnected to the litigation. Advising that this policy, with the absent of proper safeguards and internal controls, could drastically alter the way victims are compensated and could set the Department down a path where third party interest groups are compensated to a greater level than victims. In order to better understand the rationale behind the policy shift and to determine how this policy will impact victims of civil rights violations the MC requests that DOJ respond to the following questions NLT 07/29/2010.

**DATE ASSIGNED**  
07/09/2010

**ACTION COMPONENT & ACTION REQUESTED**  
CRT  
Prepare response for AAG/OLA signature.

**INFO COMPONENT:** AG, OAG (Ohlson), ODAG, OASG, CIV, OLA

**COMMENTS:** 07/09/2010: Per OLA (Burton), assign to CRT.

**FILE CODE:**

**EXECSEC POC:** Sheaya Thomas: 202-305-2437

10-4128

# United States Senate

WASHINGTON, DC 20510

July 8, 2010

**Via Electronic Transmission**

The Honorable Eric H. Holder, Jr.  
Attorney General  
United States Department of Justice  
950 Pennsylvania, Ave, NW  
Washington, DC 20530

Dear Attorney General Holder:

As a senior member of the Senate Committee on the Judiciary (Committee), it is my duty to conduct oversight of the United States Department of Justice (Department). I write today regarding the Department's recent change in policy regarding the use of Settlement Funds and consent orders within the Civil Rights Division (Division).

When the Division enters into a settlement agreement to end a civil action where damages are available, it will often require the defendant to establish a settlement fund, from which aggrieved individuals will be compensated. Once all identified victims are compensated, there is often a portion of the settlement fund unspent. In past years, it was the policy of the Department to return this amount to the defendant. Yet my office has learned that the Division has recently changed this policy. Specifically, in certain cases the Division appears to be using consent orders and settlement funds to fund outside organizations unconnected to the litigation.

In a recent civil case alleging violations of the Fair Housing Act and Equal Credit Opportunity Act, the Department entered into a consent order with the defendants requiring them to deposit \$6.1 million into an interest-bearing escrow account. From this account, the defendants are required to provide a minimum of \$1 million to "qualified organizations" selected by the defendant and approved by the Department to provide "credit counseling, financial literacy, and other related educational programs." In the event that less than \$1 million remains in the fund after the payment of damages to individuals identified by the Department, the defendant is required to replenish the fund for the purposes of financing the "qualified organizations."

In another case regarding the Equal Credit Opportunity Act, the Department entered into a consent order with the defendant requiring that they dedicate "at least 400 staff hours" and "at least ONE (One) Hundred Thousand Dollars" each year of the agreement to a specified consumer financial education and financial literacy program.

While these settlements may appear reasonable on their face, I am concerned that this change in policy has the potential to divert compensation intended for victims to third party interest groups that were not wronged by the defendant. Absent proper safeguards and internal controls, this policy change could drastically alter the way victims are



compensated and could set the Department down a path where third party interest groups are compensated to a greater level than victims. Moreover, as a staunch supporter of victims' rights, I want to know what this change in policy means for individual victims and for advocacy groups that are both selected and not selected to serve as "qualified organizations."

In order to better understand the rationale behind the policy shift and to determine how this policy will impact victims of civil rights violations, I ask that you provide answers to the following questions:

- 1) When did the Department change the policy and start requiring defendants in civil rights actions to compensate third party organizations?
- 2) Has the Deputy Attorney General or the Assistant Attorney General for the Civil Rights Division issued any internal guidance regarding the selection and appointment of a "qualified organization"? If so, provide a copy. If not, why not and will the Department issue such guidance in the future?
- 3) Provide a detailed explanation for this change in policy and provide copies of all internal memoranda/material related to the change.
- 4) How many settlements have utilized this new policy and required a defendant to pay a third party "qualified organization" since the implementation of this new policy?
- 5) Provide an explanation for how the Division calculates settlement funds, including, but not limited to any internal guidance or memoranda.
- 6) What, if any, qualifications are taken into consideration when determining whether an organization should be designated a "qualifying organization"? What protections and safeguards are in place to oversee the use of funds by the "qualified organization" to ensure that monies that could otherwise be used for victim compensation are used in a manner free of fraud, waste, and abuse?
- 7) What, if any, transparency and accountability does the Department place on "qualified organizations", including reporting and audit requirements?
- 8) Has the Department considered the creation of a fund to compensate victims of Civil Rights Violations in a manner similar to the Crime Victims Fund? If so, has the Department formulated a legislative proposal to that effect?
- 9) Prior to the selection of an organization as a "qualified organization," does the Division consult with the Office of Victims of Crime at the Department? If not, has consideration been given to such a consultation with the Office of Victims of Crime? If not, why not?
- 10) For the Division's settlements during calendar years 2008, 2009, and as of the date of this letter for 2010, provide:

- a) The total amount paid into settlement funds;
- b) Of this amount, the total paid to individuals as victims of the defendant's activity;
- c) The total amount returned to defendants;
- d) The total amount given to outside organizations either from the settlement fund or as otherwise required by the settlement;
- e) Please provide an accounting for each instance in which an outside organization, which was not a party to the litigation, has been funded or otherwise supported through a settlement by the Division. For each instance, provide the identity of the outside organization that was funded or otherwise supported; and
- f) In each of these years, has the Association of Community Organizations for Reform Now (ACORN), or any entity affiliated—financially or otherwise—with ACORN, received funds or support through a Division settlement? (A copy of ACORN-affiliated organizations is attached)

Thank you for your cooperation and attention to this important matter. Please respond to the questions set forth in this letter no later than July 29, 2010. If you have any questions, please do not hesitate to contact Christopher Armstrong or Jason Foster at (202) 224-4515. All formal correspondence should be sent electronically in PDF format to [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov) or via facsimile to (202) 228-2131.

Sincerely,



Charles E. Grassley  
United States Senator

Attachment



MEMORANDUM

November 4, 2009

**Subject:** Federal Funding to the Association of Community Organizations for Reform Now (ACORN) and Related Organizations

**From:** Meredith Peterson  
Information Research Specialist  
7-8990

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In response to multiple requests for information on federal funding for the Association of Community Organizations for Reform Now (ACORN) and its affiliated organizations, CRS has prepared the following memorandum.

To identify organizations affiliated with ACORN, CRS contacted ACORN to request a list of affiliates. ACORN provided CRS with a list of "associated" organizations, which they defined as organizations that share a common mission with ACORN. ACORN also provided a list of related organizations, which they defined as organizations that use or used a common mailing address with ACORN, organizations for which one or more of the directors served at some point on the ACORN Board of Directors, and organizations that have ACORN in their name. CRS researched federal funding awards to all of the organizations named by ACORN, as well as federal funding to "allied" organizations formerly listed on the ACORN Website. These organizations are listed in the Appendix.

To identify federal funding that may have been received by ACORN or its affiliates, CRS has compiled information from publicly available sources. These sources do not include information about subgrants and may not include all federal grants awarded directly to ACORN or its affiliates. Due to these limitations, this memorandum may not provide a complete account of federal funding received by ACORN or its affiliates.

For federal funding information, CRS searched several sources, including the *Federal Register*, USAspending.gov, and federal agency websites. Table I presents the results of this search. The table lists awards announced by federal agencies. Except where noted, CRS did not verify with the agency or the grantee that the funding was actually provided. A brief discussion of the sources CRS consulted follows.

#### USAspending.gov

The Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282) requires the creation of a single searchable website for the public to find information on federal funding awards, including the name of the entity receiving the award, the amount of the award, and the funding agency. The website

USAspending.gov was created to provide this information to the public. Data on grants, loans, insurance, and direct subsidies comes from the Federal Assistance Award Data System (FAADS). FAADS is a repository of data on federal financial assistance award transactions made by 33 federal agencies covering about 600 assistance programs.

However, USAspending.gov does not yet provide a complete and accurate account of federal assistance awards. According to the Office of Management and Budget, "data submitted for posting to USAspending.gov in the past has contained duplicates, missing transactions and data elements, and other data quality problems."<sup>1</sup> In addition to data quality problems, "funds reported in FAADS may differ from those reported in various accounting or finance systems. Some differences are due to agency reporting practices, while others result from differences in effective reporting dates or interpretations of definitions and requirements."<sup>2</sup>

For this research, CRS used USAspending.gov to identify federal agencies and programs that may have awarded funding to ACORN or ACORN affiliates. However, the award information presented in Table 1 is based on federal agency award announcements rather than award transactions from USAspending.gov.

### *Federal Register*

Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235) requires the Department of Housing and Urban Development (HUD) to announce grant awards in the *Federal Register*.<sup>3</sup> CRS searched the *Federal Register* for grants awarded by HUD to ACORN, its state chapters, related organizations as named by ACORN, and allied organizations formerly listed on the ACORN Website (see the Appendix).

### **Federal Agency Websites**

CRS also conducted general searches of federal agency websites. CRS performed additional searches on the websites of federal agencies cited in media reports as providing funding to ACORN, including the Department of Justice (DOJ), the Environmental Protection Agency (EPA), and the Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS), and HUD.

### **Congressional Quarterly (CQ)**

To identify congressionally directed funding to ACORN or organizations affiliated with ACORN that may have been included in the conference reports for appropriations bills, CRS searched CQ's database of committee reports (108th – 111th Congresses). CQ's database allows searching in committee report tables, which often include information on congressionally directed funding.

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<sup>1</sup> Guidance on Data Submission under the Federal Funding Accountability and Transparency Act (FFATA) (OMB, June 2009). [http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-19.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-19.pdf)

<sup>2</sup> *Federal Assistance Award Data System Users' Guide for Federal FY2008*. (U. S. Census Bureau, March 2009) <http://fp2.census.gov/govs/faads/guide2008.pdf>

<sup>3</sup> This requirement applies to grants made directly by HUD. Recipients of HUD funding may choose to subgrant funds to other entities and those subgrants are not reflected in the *Federal Register*.

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Table 1. Selected Federal Funding to ACORN and its Related Organizations  
FY1990-FY2008

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Associates	Albuquerque, NM	HUD	Fair Housing Initiatives Program (Education and Outreach General Component)	\$99,974	FY2008	14.408	HUD Website
New York Agency for Community Affairs	Nassau County, NY	HUD	Fair Housing Initiatives Program (Education and Outreach General Component)	\$99,427	FY2008	14.408	HUD Website
ACORN Institute	New Orleans, LA	FEMA	Fire Prevention and Safety Grants	\$997,402	FY2008	97.044	FEMA Website
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Comprehensive)	\$1,623,570	FY2008	14.169	HUD press release
ACORN Housing Corporation	National	Neighborworks	National Foreclosure Mitigation Counseling Program (Legal Assistance)	\$1,200,000	FY2008	n/a	Neighborworks Website
ACORN Housing Corporation	National	Neighborworks	National Foreclosure Mitigation Counseling Program (Counseling)	\$16,000,000	FY2008	n/a	Neighborworks Website
ACORN Housing Corporation	National	Neighborworks	National Foreclosure Mitigation Counseling Program (Counseling)	\$7,850,939	FY2008	n/a	Neighborworks Website
ACORN Housing Corporation	Saint Paul, MN	HUD	Fair Housing Initiatives Program (Education and Outreach General Component)	\$100,000	FY2007	14.408	72 FR 65345
New Mexico ACORN Fair Housing	Albuquerque, NM	HUD	Fair Housing Initiatives Program (Education and Outreach General Component)	\$99,757	FY2007	14.408	72 FR 65345
American Institute for Social Justice	Denver, CO	HUD	Fair Housing Initiatives Program (Education and Outreach General Component)	\$99,887	FY2007	14.408	HUD Website
Arkansas Community Housing Corporation	Little Rock, AR	HUD	Fair Housing Initiatives Program (Education and Outreach General Component)	\$99,948	FY2007	14.408	HUD Website
ACORN Institute	New Orleans, LA	DHS	Fire Prevention and Safety Grants	\$450,484	FY2007	97.044	FEMA Website
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Comprehensive)	\$1,628,829	FY2007	14.169	73 FR 16036

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Institute	Washington, DC	HUD	Resident Opportunities for Self Sufficiency (Family and Homeownership Program)	\$124,324	FY2007	14.8704	73 FR 66665
ACORN Tenant Union Tenant Organizing Project	Las Vegas, NV	HUD	Resident Opportunities for Self Sufficiency (Family and Homeownership Program)	\$124,965	FY2007	14.870	73 FR 66665
ACORN Institute	Columbus, OH	HUD	Resident Opportunities for Self Sufficiency (Family and Homeownership Program)	\$189,171	FY2007	14.870	73 FR 66665
ACORN Fair Housing, A Project for the American Institute for Social Justice	Washington, DC	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$99,080	FY2006	14.408	72 FR 2001
New Mexico ACORN Fair Housing	Albuquerque, NM	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$99,724	FY2006	14.408	72 FR 2001
American Environmental Justice Project	Baltimore, MD	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$99,716	FY2006	14.408	HUD Website
ACORN Associates	Albuquerque, NM	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/Subprime Lending Component)	\$49,997	FY2006	14.408	72 FR 2001
Louisiana ACORN Fair Housing Organization, A Project of ACORN Community Land Association	New Orleans, LA	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/ Fair Housing Awareness Component)	\$100,000	FY2006	14.408	72 FR 2001
Project Vote	New Castle County, DE	U.S. Election Assistance Commission (EAC)	Help America Vote College Poll Worker Program	\$16,876	FY2006	90.400	EAC Website
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Comprehensive Counseling)	\$1,821,596	FY2006	14.169	73 FR 12189
ACORN Institute	Dallas, TX	HUD	Resident Opportunities and Self-Sufficiency (Family and Homeownership Program)	\$179,916	FY2006	14.870	72 FR 74320

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Institute	Dallas, TX	HUD	Resident Opportunities and Self-Sufficiency (Family and Homeownership Program)	\$124,915	FY2006	14.870	72 FR 74320
ACORN Institute	Dallas, TX	HUD	Resident Opportunities and Self-Sufficiency (Family and Homeownership Program)	\$124,693	FY2006	14.870	72 FR 74320
ACORN Housing	St. Paul, MN	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative)	\$100,000	FY2005	14.408	70 FR 73785
ACORN Institute	Dallas, TX	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative)	\$96,953	FY2005	14.408	70 FR 73785
Arkansas Community Housing Corporation	Little Rock, AR	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative)	\$100,000	FY2005	14.408	HUD Website
Missouri Tax Justice Research Project	St. Louis, MO	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative)	\$100,000	FY2005	14.408	70 FR 73785
American Institute for Social Justice	Washington, DC	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/Homeownership Component)	\$100,000	FY2005	14.408	70 FR 73785
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Comprehensive Counseling)	\$1,197,255	FY2005	14.169	71 FR 14236
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Colonias)	\$78,354	FY2005	14.169	71 FR 14236
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Predatory Lending)	\$323,439	FY2005	14.169	71 FR 14236
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Homeownership Voucher)	\$275,000	FY2005	14.169	71 FR 14236
NY ACORN programs	Brooklyn, NY	DOJ	Juvenile Justice Programs (congressionally directed funding)	\$140,000	FY2005	16.541	HR Rept. 108-792
ACORN Associates	New Orleans, LA	HUD	Operation Lead Elimination Action Program	\$1,999,920	FY2005	14.903	71 FR 34384
ACORN Institute	Washington, DC	HUD	Resident Opportunities and Self-Sufficiency (Resident Service Delivery Models—Family)	\$362,378	FY2005	14.870	73 FR 4891

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Housing Corporation	Illinois	HUD	Self-Help Homeownership Opportunity Program	\$527,000	FY2005	14.247	71 FR 51207
ACORN Fair Housing, A Project Of American Institute	Washington, DC	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$80,000	FY2004	14.408	71 FR 53107
ACORN Housing Corporation	St., Paul, MN	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$80,000	FY2004	14.408	71 FR 53107
ACORN Institute	New Orleans, LA	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$80,000	FY2004	14.408	71 FR 53107
ACORN Housing Corporation of Texas	Houston, TX	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$49,865	FY2004	14.408	71 FR 53107
Arkansas Community Housing Corporation	Little Rock, AR	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/Homeownership Component)	\$50,000	FY2004	14.408	HUD Website
American Environmental Justice Project	Baltimore, MD	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$80,000	FY2004	14.408	HUD Website
ACORN Community Land Association	Albuquerque, NM	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/Hispanic Fair Housing Awareness Component)	\$99,775	FY2004	14.408	71 FR 53107
ACORN Housing Corporation of Arizona	Phoenix, AZ	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/Hispanic Fair Housing Awareness Component)	\$99,840	FY2004	14.408	71 FR 53107
ACORN Community Land Association of Louisiana	Baltimore, MD	HUD	Fair Housing Initiatives Program (Fair Housing Organizations Initiative/Establishing New Organizations Component)	\$200,000	FY2004	14.408	71 FR 53107
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Comprehensive)	\$1,812,471	FY2004	14.169	70 FR 22668
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Predatory Lending)	\$325,000	FY2004	14.169	70 FR 22668



Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Section 8)	\$275,000	FY2004	14.169	70 FR 22668
ACORN Associates	New Orleans, LA	HUD	Operation Lead Elimination Action Program	\$2,000,000	FY2004	14.903	70 FR 20927
Louisiana Environmental Justice Project (LEJP)	New Orleans, LA	EPA	Collaborative Problem-Solving Cooperative Agreements	\$100,000	FY2003	66.306	EPA Website
ACORN Fair Housing	Washington, DC	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$ 79,988	FY2003	14.408	71 FR 53112
ACORN Institute, Inc	New Orleans, LA	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$ 79,896	FY2003	14.408	71 FR 53112
ACORN Housing Corporation	St. Paul, MN	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$ 80,000	FY2003	14.408	71 FR 53112
ACORN Community Land Association of LA	New Orleans, LA	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$ 80,000	FY2003	14.408	71 FR 53112
Arkansas Community Housing Corp.	Little Rock, AR	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/Fair Housing and Minority Homeownership Component)	\$100,000	FY2003	14.408	71 FR 53112
ACORN Housing Corporation of AZ	Phoenix, AZ	HUD	Fair Housing Initiatives Program (Hispanic Fair Housing Awareness Component)	\$95,000	FY2003	14.408	71 FR 53112
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Comprehensive)	\$2,024,511	FY2003	14.169	69 FR 8219
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Predatory Lending)	\$380,282	FY2003	14.169	69 FR 8219
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (Section 8)	\$250,962	FY2003	14.169	69 FR 8219
ACORN Associates	New Orleans, LA	HUD	Operation Lead Elimination Action Program	\$ 999,974	FY2003	14.903	68 FR 66121
ACORN Tenant Union-Training & Organizing Project	Washington, DC	HUD	Resident Opportunity & Self Sufficiency (Resident-Service Delivery Models-Family)	\$278,636	FY2003	14.870	71 FR 59515

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Tenant Union-Training & Organizing Project	Washington, DC	HUD	Resident Opportunity & Self Sufficiency (Resident Service Delivery Models--Family)	\$230,500	FY2003	14.870	71 FR 59515
ACORN Fair Housing	Washington, DC	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$100,000	FY2002	14.408	71 FR 52563
ACORN Housing Corporation	St. Paul, MN	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$100,000	FY2002	14.408	71 FR 52563
ACORN Community Land Association of LA	New Orleans, LA	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$100,000	FY2002	14.408	71 FR 52563
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program	\$1,167,044	FY2002	14.169	68 FR 1621
ACORN Housing Corporation	Illinois	HUD	Self-Help Homeownership Opportunity Program	\$351,000	FY2002	14.247	71 FR 51205
ACORN Housing Corporation	St. Paul, MN	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$100,000	FY2001	14.408	71 FR 52559
Arkansas Community Housing Corporation	Little Rock, AR	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$100,000	FY2001	14.408	HUD Website
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program	\$1,032,192	FY2001	14.169	67 FR 2228
ACORN Fair Housing a Project of the American Institute for Social Justice	Washington, DC	HUD	Fair Housing Initiatives Program (Education and Outreach Initiative/General Component)	\$300,000	FY2000	14.408	66 FR 56695
ACORN Housing Corporation	Chicago, IL	HUD	Housing Counseling Program (noncompetitive award)	\$300,000	FY2000	14.169	66 FR 18783
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program (competitive award)	\$597,474	FY2000	14.169	66 FR 18784
Arkansas Institute for Social Justice	Baltimore, MD	EPA	Environmental Justice Small Grants Program	\$15,000	FY1999	66.604	EPA Website

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program	\$1,000,000	FY1998	14.169	64 FR 33493
ACORN Housing Corporation	Chicago, IL	HUD	Self-Help Homeownership Opportunity Program	\$751,500	FY1998	14.247	64 FR 7206
ACORN Tenant Union Training and Organizing Project	Washington, DC	HUD	Tenant Opportunities Program	\$99,900	FY1998	14.853	64 FR 18040
Arkansas ACORN Fair Housing	Little Rock, AR	HUD	Fair Housing Initiatives Program (Education And Outreach Initiative--Community Tensions Component)	\$100,000	FY1997	14.408	63 FR 8465
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program	\$1,000,000	FY1997	14.169	63 FR 45832
ACORN Tenant Union Training Project	Brooklyn, NY	HUD	Tenant Opportunities Program	\$250,000	FY1997	14.853	63 FR 17204
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program	\$900,000	FY1996	14.169	61 FR 55811
ACORN Housing Corporation	New Orleans, LA	Corporation for National and Community Service (CNCS)	AmeriCorps	\$1,419,893	FY1995	94.006	CNCS Website
ACORN Housing Corporation	Philadelphia, PA	HUD	Housing Counseling Program	\$850,500	FY1995	14.169	60 FR 55037
ACORN Tenant Union	Brooklyn, NY	HUD	Tenant Opportunity Program Technical Assistance Grant	\$100,000	FY1995	14.853	61 FR 5015
ACORN	St. Louis, MO	EPA	Environmental Justice Small Grants Program	\$6,665	FY1994	66.604	EPA Website
ACORN Housing Corporation	Dallas, TX	HUD	Fair Housing Initiatives Program	\$120,000	FY1994	14.408	59 FR 63369
ACORN Housing Corporation	Phoenix, AZ	HUD	Fair Housing Initiatives Program	\$100,000	FY1994	14.408	59 FR 63369

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
Louisiana Fair Housing Organization, c/o Louisiana ACORN	New Orleans, LA	HUD	Fair Housing Initiatives Program	\$ 250,000	FY1994	14-408	59 FR 63369
ACORN Tenant Union	Washington, DC	HUD	Tenant Opportunities Program Technical Assistance Grant	\$100,000	FY1994	14.853	61 FR 26193
South-Central ACORN Tenant Union	Dallas, TX	HUD	Tenant Opportunities Program Technical Assistance Grant	\$100,000	FY1994	14.853	61 FR 26193
ACORN New England Fair Housing Project	New Orleans, LA	HUD	Fair Housing Initiatives Program	\$95,000	FY1993	14-408	59 FR 35942
ACORN Peaches Coalition for Fairness in Housing	New Orleans, LA	HUD	Fair Housing Initiatives Program	\$95,000	FY1993	14-408	59 FR 35942
ACORN Midwest Fair Housing Consortium	New Orleans, LA	HUD	Fair Housing Initiatives Program	\$95,000	FY1993	14-408	59 FR 35942
ACORN Southern Fairness in Housing Coalition	New Orleans, LA	HUD	Fair Housing Initiatives Program	\$ 95,000	FY1993	14-408	59 FR 35942
ACORN Missouri Consortium for Fair Housing	New Orleans, LA	HUD	Fair Housing Initiatives Program	\$ 95,000	FY1993	14-408	59 FR 35942
ACORN Fair Housing for Washington Coalition	New Orleans, LA	HUD	Fair Housing Initiatives Program	\$ 95,000	FY1993	14-408	59 FR 35942
ACORN Housing Corp of Illinois	Chicago, IL	HUD	HOPE for Homeownership of Single Family Homes Program	\$893,750	FY1993	n/a	59 FR 13498
ACORN Housing Corporation	Little Rock, AR	HUD	HOPE for Homeownership of Single Family Homes Program	\$447,890	FY1992	n/a	57 FR 48038
ACORN Housing Corporation	Phoenix, AZ	HUD	HOPE for Homeownership of Single Family Homes Program	\$1,683,213	FY1992	n/a	57 FR 48038

Recipient Name	Recipient Location	Agency	Program	Amount	Funding Year	CFDA Number	Source
ACORN Housing Corporation of Illinois	Chicago, IL	HUD	Neighborhood Development Demonstration Program	\$50,000	FY1992	n/a	58 FR 43648
ACORN Housing Corporation	Phoenix, AZ	HUD	Neighborhood Development Demonstration Program	\$50,000	FY1992	n/a	58 FR 43648
ACORN Housing Corporation	Phoenix, AZ	HUD	Neighborhood Development Demonstration Program	\$50,000	FY1991	n/a	56 FR 46005
ACORN Housing Corporation	Phoenix, AZ	HUD	Neighborhood Development Demonstration Program	\$50,000	FY1990	n/a	55 FR 43040

Sources: Federal Register, HUD Website, EPA Website, FEMA Website, CNCS Website, Neighborworks America, H. Rept. 108-792, Catalog of Federal Domestic Assistance (CFDA).

Notes: Awards are listed in reverse chronological order and then alphabetically by program title.

- a. This award was announced just prior to the passage of the first Continuing Resolution Appropriations Resolution (CR, P.L. 111-68) which included a provision prohibiting federal funding under the CR or "any prior Act" to ACORN or "any of its affiliates, subsidiaries, or allied organizations." This provision was extended to December 18, 2009, by the second CR (P.L. 111-88). According to FEMA, no grant was awarded and the grant will not be restored when the CR expires.
- b. A list of the locations of expected subgrantees for the February 2008 awards is available at [http://www.nw.org/network/nfmcq/documents/ProjectedRevised\\_LocationofNFMCAwardesandSubGrantees.pdf](http://www.nw.org/network/nfmcq/documents/ProjectedRevised_LocationofNFMCAwardesandSubGrantees.pdf); locations of expected subgrantees for the December 2008 awards is at <http://www.nw.org/network/nfmcq/documents/RD2DetailedStateProfilesSummaryReport201608.pdf>.
- c. The National Foreclosure Mitigation Counseling Program was created by the Consolidated Appropriations Act of 2008 (P.L. 110-161) in December 2007. The legislation appropriated \$180 million for the program and named NeighborWorks America to act as the administrator. An additional \$180 million was appropriated for the program through the Housing and Economic Recovery Act of 2008 (P.L. 110-289), including \$30 million for legal assistance. The Omnibus Appropriations Act of 2009 (P.L. 111-8) appropriated \$50 million for NFMIC.
- d. In FY2008, Resident Opportunities and Self Sufficiency (ROSS)-Family & Homeownership and ROSS-Elderly/Persons with Disabilities were combined into one ROSS-Service Coordinators program.
- e. Listed as American Institute for Social Justice in the Federal Register.
- f. USA Spending.gov lists this award to N.Y. Agency For Community Affairs, an organization included in the affiliates list provided by ACORN. Location information is from USA Spending.gov.
- g. ACORN's list of affiliates names the Environmental Justice Training Project. EPA's grant announcement contact information is Stephen Bradberry, 1024 Elysian Fields Ave. New Orleans, LA, [laacornnoho@acorn.org](mailto:laacornnoho@acorn.org).
- h. ACORN's list of affiliates names the American Institute of Justice incorporated in Arkansas. The grant announcement indicates that "the Institute for Social Justice sponsor's [sic] the Washington/Baltimore ACORN Environmental Empowerment Project, which works to increase lead poisoning awareness amongst the communities. The goal is to expand the outreach efforts by doing presentations for parents on lead poisoning, doing regional training for grassroots leaders, and building partnerships between advocacy organizations, neighborhood institutions, and ACORN members."

i. Corporation for National Service Inspector General Audit of ACORN Housing Corporation, <http://www.cnscig.gov/PDF/AuditReports/fy96/96-21.pdf>. This award was terminated prior to the end of the award period.

j. Award announcement notes that this award was combined with a similar project in another region.

k. This organization name is not listed by ACORN. The address in the award announcement is the address given on the ACORN Website for ACORN National Research: 4413 San Jacinto St, Dallas, TX.

l. These organization names are not listed by ACORN. The address in the award announcement is the address given on the ACORN Website for ACORN National: 1024 Elysian Fields, New Orleans, LA.

## Appendix.

### ACORN State Chapters

Arkansas ACORN  
Arizona ACORN  
California ACORN  
Colorado ACORN  
Connecticut ACORN  
DC ACORN  
Delaware ACORN  
Florida ACORN  
Louisiana ACORN  
Massachusetts ACORN  
Maryland ACORN  
Michigan ACORN  
Minnesota ACORN  
Missouri ACORN  
North Carolina ACORN  
New Jersey ACORN  
New Mexico ACORN  
Nevada ACORN  
New York ACORN  
Ohio ACORN  
Oregon ACORN  
Pennsylvania ACORN  
Rhode Island ACORN  
Texas ACORN  
Washington ACORN

### ACORN Associated Organizations

ACORN describes these organizations as independent entities that share a common mission with ACORN. According to ACORN, these organizations may be linked in several ways. Organizations with employees may provide retirement and health benefits through the same multi-employer plans. Associated organizations may purchase certain services (e.g., telephone or Internet services) through a

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common billing arrangement. And many of these organizations have contracted with ACORN for projects or services and with Citizens' Consulting, Inc. for services such as bookkeeping.

ACORN Institute

American Institute for Social Justice

ACORN Community Land Association of Louisiana

Arkansas Community Housing Corp.

California Community Network

NY Agency for Community Affairs

Pennsylvania Institute for Community Affairs

Agape Broadcast Foundation (KNON Dallas)

Arkansas Broadcasting Foundation

ACORN Law for Education, Representation and Training (changed name to ACORN Legal Education Advocacy and Defense Fund)

Affiliated Media Foundation Movement

American Environmental Justice Project

Citizens Services, Inc.

ACORN Tenant Union Training and Organizing Project

ACORN Center for Housing

American Home Daycare Workers Association

Arkansas ACORN Fair Housing (merged into Arkansas Community Housing Corp.)

Louisiana ACORN Fair Housing (merged into ACORN Community Land Association of Louisiana)

New Mexico ACORN Fair Housing

5301 McDougall Corp.

4415 San Jacinto Corp.

Baltimore Organizing and Support Center

Broad Street Corporation

Elysian Fields Corp.

Fifteenth Street Corp.

New Mexico Organizing and Support Center

New York Organizing and Support Center

St. Louis Organizing and Support Center

ACORN Votes: Federal PAC

Community and Labor United for Baltimore

ACORN Votes Issues Committee: California

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Arizona ACORN Issues Committee  
Arkansas ACORN PAC  
California ACORN PAC  
Colorado ACORN Issues Committee  
District of Columbia ACORN PAC  
Louisiana ACORN PAC  
Maryland ACORN PAC  
Massachusetts ACORN PAC  
Minnesota ACORN PAC  
Missouri ACORN PAC  
New Mexico ACORN PAC  
New York ACORN PAC  
Pennsylvania ACORN PAC  
Texas ACORN PAC  
American Home Day Care Workers Association PAC: Louisiana  
Council Health Insurance Plan (multi-employer health insurance plan)

*Inactive, Closing<sup>1</sup>*

Southern Training Center  
Citizens Consulting, Inc.  
Association for the Rights of Citizens  
National Center for Jobs and Justice  
Council Beneficial Association (multi-employer retirement plan)  
Council Health Plan (multi-employer health insurance plan)  
People's Equipment Resource Center  
ACORN Associates, Inc.  
ACORN Television In Action for Communities  
ACORN Tenants Union  
ACORN Community Labor Organizing Center  
ACORN Services, Inc.

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<sup>1</sup> These are organizations described by ACORN as in the process of being "wound down," dissolved, or closed.

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ACORN Beneficial Association  
ACORN Campaign Services  
ACORN Children's Beneficial Association  
ACORN Cultural Trust  
ACORN Fair Housing  
ACORN Fund  
ACORN National Broadcasting Network  
Citizens for Future Progress  
Democracy for America  
Environmental Justice Training Project  
Hammurabi Foundation  
Iowa ACORN Broadcasting Corp.  
Metro Technical Institute  
Middle South Home Day Care Workers Association  
Montana Radio Network  
New Orleans Community Housing Organization  
People Organizing Workfare Workers  
Shreveport Community Television  
United Security Workers of America  
Volunteers for America  
Volunteers for California  
Volunteers for Missouri, Inc.  
Chicago Organizing and Support Center

*Dissolved, Closed<sup>5</sup>*

Missouri Tax Justice Research Project  
ACORN Campaign to Raise the Minimum Wage  
ACORN Foster Parents  
Alabama Radio Movement  
Baton Rouge Association of Educational Personnel

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<sup>5</sup> These are organizations described by ACORN as being dissolved, closed, or defunct.

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Community Training for Environmental Justice  
Flagstaff Broadcast Foundation  
Illinois Home Day Care Worker Association  
Maricopa Community Television Project  
Missouri Home Child Care Workers Association  
Movement for Economic Justice  
Orleans Criminal Sheriffs Workers Organization  
Radio New Mexico  
Colorado Organizing and Support Center  
Citizens Campaign for Fair Work  
Illinois ACORN PAC  
Rhode Island PAC  
Floridians for All ACORN PAC  
Committee to Raise Wages  
ACORN Law Reform Political Action Committee  
Progressive St Louis Reform Committee for an Accountable Future  
Reform Committee for an Accountable Future  
Citizens for Future Progress  
Campaign for Justice at Avondale  
New Orleans Campaign for a Living Wage  
St. Louis Tax Reform Group<sup>6</sup>

#### Related Organizations Identified by ACORN

ACORN provided this list of organizations which use or used a common mailing address with ACORN, organizations for which directors were also on the ACORN Board of Directors at some point in time, and organizations that have the word ACORN in their name. ACORN does not have information on their current status.

ACORN International  
ACORN Institute Canada  
ACORN Canada

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<sup>6</sup> ACORN notes status as "'final' tax reform filed for 2008."

American Workers Association  
Baton Rouge Association of School Employees  
Chief Organizer Fund  
Citizens Services Society  
Community Labor Organizing Committee  
Greenwell Springs Corp.  
Hospitality Hotel and Restaurant Organizing Counsel  
Houston Organizing and Support Center  
Jefferson Area Public Employees  
Jefferson Area School Employees  
Labor Link, Inc  
Labor Neighbor Research and Training Center  
Local 100 Health and Welfare Fund  
Local 100 PAC  
Local 100 Retirement Fund  
Service Workers Action Team  
Sixth Avenue Corporation  
Texas United City-County Employees  
Texas United School Employees  
United Labor Foundation of Greater New Orleans  
Walmart Alliance for Reform Now  
Walmart Workers Association  
Working Families Association  
650 PAC  
ACORN Housing, Inc.  
ACORN Beverly, LLC  
ACORN Community Land Association of Illinois  
ACORN Community Land Association of Pennsylvania  
ACORN Community Land Association, Inc.  
ACORN Housing Affordable Loans  
ACORN Housing Corporation of Illinois  
ACORN Housing Corporation of Missouri  
ACORN Housing Corporation of Pennsylvania  
ACORN Housing Corporation, NOLA

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Arizona ACORN Housing Corp.  
Arkansas ACORN Housing Corp.  
Desert Rose Homeowners Association  
Desert Rose Homes  
Massachusetts ACORN Housing Corp.  
McLellan Multi-Family Corp.  
New Jersey ACORN Housing, Inc.  
Texas ACORN Housing Corp, Inc.  
Phoenix Organizing and Support Center  
NY ACORN Housing Company, Inc.  
1825 Atlantic Ave ACORN Housing, Inc.  
385 Palmetto Street Housing Development Fund Corp.  
730 Rockaway ACORN Housing, Inc.  
ACORN 2004 Housing Development Fund Corp.  
ACORN 2005 Housing Development Fund Corp.  
ACORN 2007 Housing Development Fund Corp.  
ACORN Housing 1 Associates, LP  
ACORN Housing 2 Associates, LP  
ACORN Housing 2, Inc.  
ACORN Housing 3, Inc.  
ACORN Housing 3 Associates, LP  
ACORN Housing 4 Associates, LP  
ACORN Housing 4, Inc.  
ACORN NJ Straight Apartments, LP  
ACORN Straight Apartments, LP  
ACORN Dumont Snediker Housing Development Fund  
Franklin ACORN Housing, Inc.  
Mott Haven ACORN Housing Development Fund  
Mutual Housing Association of New York  
Mutual Housing Association of New York 2003  
Mutual Housing Association of New York Development Fund Corp  
ACORN Bristol Housing, Inc.  
ACORN Bristol Housing Development Corp  
ACORN Homes 2006

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ACORN Housing 2007 Housing Development Fund Corp  
Phoenix Estates Housing Development Fund Corp  
Phoenix Estates, Inc.  
Phoenix Estates, LLC

**ACORN Allied Organizations Formerly Listed on the ACORN Website<sup>7</sup>**

ACORN Institute  
WalMart Alliance for Reform Now  
ACORN Housing Corporation  
ACORN Living Wage Resource Center  
KABF Radio  
KNON Radio  
Project Vote  
Service Employees International Union - Local 100  
Service Employees International Union - Local 880

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<sup>7</sup> ACORN Website on August 22, 2008, accessed on the Internet Archive:  
<http://web.archive.org/web/20080822090025/www.acorn.org/index.php?id=12375>

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,  
Plaintiff,

v.

DONALD STERLING, individually, in  
his capacity as trustee for the Sterling  
Family Trust, and doing business as  
Beverly Hills Properties; ROCHELLE  
STERLING, individually and in her  
capacity as trustee for the Sterling  
Family Trust; STERLING FAMILY  
TRUST; and THE KOREAN LAND  
COMPANY, L.L.C.,  
Defendants.

**CONSENT ORDER**

Case Nos.: 06-4885 DSF (Ex);  
06-7442 DSF (Ex); and  
07-7234 DSF (Ex)

Judge: Hon. Dale S. Fischer  
United States District  
Judge  
(Courtroom 840)

1 KEVIN TYRRELL; KAREN HARRIS-  
2 TYRRELL; A.H.T., minor, and E.H.T.,  
3 KAREN HARRIS-TYRRELL,  
4 Plaintiffs,

5 v.

6 DONALD STERLING, individually, in  
7 his capacity as trustee for the Sterling  
8 Family Trust, and doing business as  
9 Beverly Hills Properties; ROCHELLE  
10 STERLING, individually and in her  
11 capacity as trustee for the Sterling  
12 Family Trust; STERLING FAMILY  
13 TRUST; and THE KOREAN LAND  
14 COMPANY, L.L.C.,  
15 Defendants.

13 DARRELL RHODES; MARY  
14 RHODES; J.R., minor, M.R., minor,  
15 and D.R., minor, each by their guardian  
16 ad litem DARRELL RHODES,  
17 Plaintiffs,

17 v.

18 DONALD STERLING, individually, in  
19 his capacity as trustee for the Sterling  
20 Family Trust, and doing business as  
21 Beverly Hills Properties; ROCHELLE  
22 STERLING, individually and in her  
23 capacity as trustee for the Sterling  
24 Family Trust; STERLING FAMILY  
25 TRUST; and THE KOREAN LAND  
26 COMPANY, L.L.C., and DOES 1  
27 THROUGH 10,  
28 Defendants.



1 **I. INTRODUCTION**

2 1. The United States filed its complaint against Defendants (“Defendants”) on  
3 August 7, 2006, alleging violations of the Fair Housing Act (“FHA”), Title VIII  
4 of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act  
5 of 1988, 42 U.S.C. §§ 3601 et seq. (the “U.S. Action”).

6 2. Kevin Tyrrell, Karen Harris-Tyrrell, and A.H.T., minor, and E.H.T., minor, each  
7 by their guardian ad litem Karen Harris-Tyrrell (collectively, “Tyrrells”), filed  
8 their complaint on November 27, 2006, alleging violations of the Fair Housing  
9 Act (“FHA”), Title VIII of the Civil Rights Act of 1968, as amended by the Fair  
10 Housing Amendment Act of 1988, 42 U.S.C. §§ 3601 et seq., the Civil Rights  
11 Action of 1866, 42 U.S.C. § 1982, California Fair Employment and Housing Act,  
12 California Government Code § 12955, et seq., California Unruh Civil Rights Act,  
13 California Civil Code § 51, et seq., California Business and Professions Code §  
14 17200, California Code of Civil Procedure §§ 1159 and 1160, Los Angeles  
15 Municipal Code §§ 151.04, 151.09, 151.10 and 161.1201, California Civil Code  
16 §§ 44-46, 789.3, 827, 1499, 1512, 1927, 1940.2, 1941.1, 1942.4, 1924.5, 1942.6,  
17 1947.11, 1927, and 1954, California Health and Safety Code § 17900, et seq., and  
18 California Constitution, art. I, §2(a) (the “Tyrrell Action”).

19 3. Darrell Rhodes, Mary Rhodes, and J.R., minor, M.R., minor, and D.R., minor,  
20 each by their guardian ad litem Darrell Rhodes (collectively, “Rhodes”), filed  
21 their complaint on November 2, 2007, alleging violations of the Fair Housing Act  
22 (“FHA”), Title VIII of the Civil Rights Act of 1968, as amended by the Fair  
23 Housing Amendment Act of 1988, 42 U.S.C. §§ 3601 et seq., the Civil Rights  
24 Action of 1866, 42 U.S.C. § 1982, California Fair Employment and Housing Act,  
25 California Government Code § 12955, et seq., California Unruh Civil Rights Act,  
26 California Civil Code § 51, et seq., California Business and Professions Code §  
27 17200, California Code of Civil Procedure §§ 1159 and 1160, Los Angeles  
28 Municipal Code §§ 151.04, 151.09, 151.10 and 161.1201, California Civil Code

1 §§ 44-46, 789.3, 827, 1499, 1512, 1927, 1940.2, 1941.1, 1942.4, 1924.5, 1942.6,  
2 1947.11, 1927, and 1954, California Health and Safety Code § 17900, et seq.,  
3 California Penal Code § 484(a), and California Constitution, art. I, §§ 1 and 2(a)  
4 (the "Rhodes Action").

5 4. The U.S. Action, the Tyrrell Action, and the Rhodes Action shall hereinafter be  
6 referred collectively as "the Actions". The Actions were consolidated for  
7 discovery by this Court. The Court hereby consolidates the Actions for the  
8 purpose of entering and enforcing this Consent Order.

9 5. Defendants, and each of them, deny violating the FHA or engaging in any  
10 wrongful conduct of any type or nature as alleged in the Actions. Defendants,  
11 and each of them, further deny discriminating against any tenant or prospective  
12 tenant on the basis of race, color, national origin or familial status. This Consent  
13 Order is a compromise of disputed claims, and is not to be construed as an  
14 admission of liability on the part of Defendants, by whom liability is expressly  
15 denied.

16 6. At all times relevant to this case, the Defendants owned and/or managed multi-  
17 family residential rental properties located in Los Angeles County, California.

18 7. The Parties desire to fully and finally settle the Actions to avoid costly and  
19 protracted litigation and agree that the claims against Defendants should be  
20 settled as set forth in this Consent Order without incurring the time and expense  
21 of further litigation. Therefore, without any admission of any liability or any  
22 wrongdoing, the Parties have agreed to the entry of this Consent Order.

23 THEREFORE, IT IS HEREBY ORDERED:

24 **II. JURISDICTION AND SCOPE**

25 8. The Court has subject matter jurisdiction over the claims in the Actions pursuant  
26 to 28 U.S.C. §§ 1331, 1345 and 42 U.S.C. § 3614(a).

27 9. The provisions of this Consent Order shall be binding on Defendants, their heirs,  
28 successors and assigns, and their agents and employees (including, but not limited

1 to, all employees or agents of Beverly Hills Properties) with respect to the Los  
2 Angeles County Residential Rental Properties. For purposes of this Consent  
3 Order, the "Los Angeles County Residential Rental Properties" shall refer to the  
4 119 buildings comprising approximately 5,706 dwelling units that Defendants  
5 currently own or manage, and any additional properties that Defendants otherwise  
6 acquire or manage, in Los Angeles County during the term of this Consent Order.  
7 The provisions of this Consent Order shall cease to apply to any Los Angeles  
8 County Residential Rental Property if Defendants sell or otherwise transfer a  
9 majority interest to a third party unaffiliated with any of the Defendants and  
10 Defendants cease to have management responsibilities in such property.  
11 Defendants shall provide to the United States, by facsimile and first class mail,  
12 written notice of its sale or transfer and the identity of the buyer or transferee.

13 **III. GENERAL INJUNCTION**

14 10. Defendants, with respect to the Los Angeles County Residential Rental  
15 Properties, are hereby enjoined from:

- 16 a. Refusing to rent a dwelling, refusing or failing to provide or offer  
17 information about a dwelling, or otherwise making unavailable or denying  
18 a dwelling to persons because of race, color, national origin or familial  
19 status;
- 20 b. Discriminating against any person in the terms, conditions, or privileges of  
21 rental of a dwelling or in the provision of services or facilities in  
22 connection therewith, including engaging in any harassment or  
23 intimidation, because of race, color, national origin or familial status;
- 24 c. Making, printing, publishing, or causing to be made, printed or published,  
25 any notice, statement, or advertisement with respect to the rental of a  
26 dwelling that indicates any preference, limitation, or discrimination on the  
27 basis of race, color, national origin or familial status;
- 28

- 1 d. Misrepresenting the availability of units based on race, color, national  
2 origin or familial status; and
- 3 e. Coercing, intimidating, threatening or interfering with any person in the  
4 exercise or enjoyment of, or on account of his having exercised or enjoyed,  
5 or on account of his having aided or encouraged any other person in the  
6 exercise or enjoyment of any right protected by the FHA.

7 **IV. AFFIRMATIVE RELIEF**

8 11. Application and Tenancy Procedures: Defendants shall comply with the  
9 procedures contained in this Consent Order with respect to the rental of dwellings  
10 at the Los Angeles County Residential Rental Properties to ensure compliance  
11 with the FHA and to ensure that these dwellings are made available for rent on an  
12 equal basis and on the same terms and conditions for all persons, irrespective of  
13 race, color, national origin or familial status.

14 12. Nondiscrimination Policy: Within thirty (30) days of the entry of this Consent  
15 Order, Defendants shall submit their existing written Nondiscrimination Policy  
16 for approval to the United States<sup>1</sup>. Within fourteen (14) days of the United  
17 States' approval of the Nondiscrimination Policy, the Defendants shall distribute  
18 any modified Nondiscrimination Policy. During the term of this Consent Order,  
19 if Defendants wish to modify or alter the Nondiscrimination Policy, they shall  
20 submit the proposed changes to counsel for the United States for review and  
21 approval.

22 13. Uniform and Nondiscriminatory Procedures: Within thirty (30) days of the entry  
23 of this Consent Order, Defendants shall submit for approval to the United States  
24 Uniform and Nondiscriminatory Procedures in connection with:

25  
26 <sup>1</sup> For purposes of this Order, all submissions to the United States or its counsel should be submitted  
27 to: Chief, Housing and Civil Enforcement Section, Civil Rights Division, United States Department of  
28 Justice, 950 Pennsylvania Avenue, N.W. - G Street, Washington, DC 20530. Attn. DJ # 175-12C-601.

- 1 a. receiving, handling, processing, rejecting, and approving rental inquiries
- 2 and applications made in-person, by telephone, by mail, or by other means;
- 3 b. assigning prospective tenants to new units; and
- 4 c. transferring existing tenants to different units.

5 Within fourteen (14) days of the United States' approval of the Uniform and  
6 Nondiscriminatory Procedures, Defendants shall implement such Uniform and  
7 Nondiscriminatory Procedures. During the term of this Consent Order, if  
8 Defendants wish to modify or alter the Uniform and Nondiscriminatory  
9 Procedures, they shall submit the proposed changes to counsel for the United  
10 States for review and approval. The Uniform and Nondiscriminatory Procedures  
11 shall be consistent with the practices and procedures outlined in paragraphs 14-  
12 18.

- 13 14. Vacancy Reports: Defendants shall maintain current, accurate vacancy reports of  
14 all dwellings available or expected to be available for rental within the next thirty  
15 (30) days ("Vacancy Report"), which include for each dwelling:
- 16 a. The address, apartment number, and number of bedrooms;
  - 17 b. Whether the apartment is vacant and, if not, the date that the apartment is  
18 scheduled to be vacant; and
  - 19 c. Whether the apartment is available to be moved into and, if not, the date  
20 that it is expected to be available for move-in.

21 The Vacancy Report shall be updated at least weekly and shall bear the date it  
22 was issued or updated at the top.

- 23 15. Inquiry Logs: Within fifteen (15) days of the entry of this Consent Order,  
24 Defendants shall maintain Inquiry Logs and request all persons who visit to  
25 inquire about renting an apartment to sign the Inquiry Log, provide the date of  
26 their visit, their name, their address, their telephone numbers, and the date by  
27 when they wish to move. Defendants shall note on the Inquiry Log the dwelling  
28 units the person was shown, if any, whether the person was given an application,

1 the name of the employee who attended to the individual inquiring about a  
2 dwelling unit, and whether the visitor was referred to any other properties owned  
3 or managed by Defendants.

4 16. Wait Lists: As of the date of entry of this Consent Order, Defendants shall offer  
5 to any person that applies for an apartment or inquires about available apartments  
6 that they may be added to a Wait List for the type(s) of apartment the applicant is  
7 seeking. Defendants shall maintain for a eight (8) week period Wait Lists at each  
8 apartment building containing the names of the individuals who wish to be  
9 included on the Wait List. The Wait List shall also request information regarding  
10 the applicant's current address, telephone number, and the size of the dwelling  
11 unit the individual seeks. Defendants shall also indicate, for each applicant, the  
12 time and date he or she was placed on the Wait List and the name of the employee  
13 who received the applicant's application.

14 17. Rental Applications: Defendants shall write legibly on each rental application  
15 filled out by a prospective tenant the month, day, year, and time that Defendants  
16 received the application. Defendants shall review the applications in the order in  
17 which they are received. To the extent Defendants reject any application for  
18 housing, Defendants shall provide, either on the application or on an attachment  
19 to the application, a written explanation why the applicant was not offered a  
20 tenancy, any supporting documentation, and the name of the employee who made  
21 the decision. Defendants shall attempt to notify such applicant of the rejection  
22 and the reason therefor. Defendants shall permit all persons who inquire about  
23 renting a dwelling unit the opportunity to apply for an apartment.

24 18. Information Provided to Prospective Applicants: Defendants shall advise all  
25 persons who inquire about renting a dwelling that they may receive an application  
26 to be filled out and, if an apartment of the type that the person requested is not  
27 available, they shall be informed of the opportunity to be placed on a Wait List.  
28

1 The application shall inform all persons on each application that they will be  
2 treated equally, irrespective of race, color, national origin, or familial status.

3 **V. EDUCATIONAL PROGRAM**

4 19. Within one hundred and twenty (120) days of the entry of this Consent Order, all  
5 agents or employees of the Defendants who have responsibility for showing,  
6 renting, or managing dwellings at the Los Angeles County Residential Properties  
7 shall attend and complete a fair housing training program, approved by the United  
8 States, at the Defendants' expense. The training shall be conducted by a qualified  
9 third party, (including but not limited to the Housing Rights Center), unconnected  
10 to Defendants or their employees or officers, agents, or counsel. Defendants shall  
11 notify the United States of the name, address and professional background of the  
12 trainer that Defendants select at least thirty (30) days in advance of such training.  
13 The United States may reasonably object to the trainer within ten (10) days of  
14 receipt of the notice, in which case Defendants shall select an alternate trainer  
15 acceptable to the United States. If no objection is received by the Defendants, the  
16 trainer so selected shall stand approved.

17 20. The training shall include the following:

- 18 a. Informing each individual of his or her duties and obligations under this  
19 Consent Order as well as under the FHA;
- 20 b. Furnishing to each individual a copy of Defendants' Nondiscrimination  
21 Policy and Uniform and Nondiscriminatory Procedures identified in  
22 Paragraphs 12 and 13;
- 23 c. Explaining how Defendants' policies and procedures are designed to  
24 ensure that racial discrimination, national origin discrimination, and  
25 familial status discrimination does not influence the process of providing  
26 rental information to persons who make inquiries, the timing of making  
27 decisions on rental applications, and the process of assigning applicants to  
28 units;

- 1 d. Conducting a question and answer session for purposes of reviewing items  
2 a through c above and confirming that all trainees understand items a  
3 through c above; and  
4 e. Securing a signed certification in the form of the statement attached hereto  
5 as Appendix A-1, from each such individual indicating that he or she  
6 attended the training and has received, read, and understood Defendants'  
7 Nondiscrimination Policy and Uniform and Nondiscriminatory Procedures  
8 identified in Paragraphs 11 through 18.

9 21. During the period in which this Consent Order is in effect, within thirty (30) days  
10 of commencing an employment relationship, all employees of Beverly Hills  
11 Properties who have responsibility for showing, renting, or managing dwellings  
12 shall be given a copy of the written Nondiscrimination Policy and the Uniform  
13 and Nondiscriminatory Procedures, and shall be required to sign the statement  
14 appearing at Appendix A-2.

15 **VI. NOTIFICATION TO TENANTS AND PUBLIC**

16 22. Defendants shall:

- 17 a. Post and prominently display a full size HUD fair housing poster, HUD  
18 Form 928.1, in a conspicuous location in or near the rental office or  
19 apartment or other location used as a rental office at each of the Los  
20 Angeles County Residential Rental Properties within thirty (30) days of the  
21 date of this Consent Order;  
22 b. Include the phrase "Equal Housing Opportunity" or the fair housing logo in  
23 all rental advertising, including billboards, telephone directory listings,  
24 radio, television, or internet; and  
25  
26  
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- 1 c. Include the following written statement on all Defendants' Rental  
2 Applications, Leases, Uniform and Nondiscriminatory Procedures, and  
3 Inquiry Logs:

4 We are an equal opportunity housing provider. We do not  
5 discriminate on the basis of race, color, national origin,  
6 familial status, religion, marital status, or disability.

7 **VII. TESTING**

- 8 23. Defendants, in consultation with the United States, shall retain an independent  
9 company or organization ("Testing Contractor"), approved by the United States,  
10 to develop and implement a testing program to audit and monitor the Defendants'  
11 compliance with the Fair Housing Act and this Order. The Testing Contractor  
12 must have experience in conducting paired testing for potential civil rights  
13 violations, including Fair Housing Act violations, and be wholly independent  
14 from the Defendants. The testing program will consist of a total of 100 paired  
15 tests of Defendants' Properties in the first year of this Order, and 75 paired tests  
16 in the second and third years of the Order, for a total of 250 paired tests.  
17 Defendants shall bear all costs, fees, and expenses associated with the  
18 development and implementation of this testing program. The tests shall be  
19 designed to determine whether Defendants are providing equal treatment to all  
20 prospective applicants for housing.
- 21 24. Defendants shall enter into a contract with the Testing Contractor that is  
22 consistent with the terms of this Order within ninety (90) days after the entry of  
23 this Order. The contract shall oblige the Testing Contractor to provide an  
24 adequate number of trained individuals to serve as testers to conduct the tests  
25 described in Paragraph 23.
- 26 25. Test procedures developed by the Testing Contractor shall be submitted to the  
27 United States for approval prior to the beginning of the testing program.  
28

- 1 26. At no time shall any employee, agent or officer of Defendants be provided with  
2 any information concerning the location, procedure, or test plan prior to the  
3 completion of the test. At no time shall the Testing Contractor disclose to any  
4 employee, agent, or officer of the Defendants the identities of individual testers,  
5 or any information that would reveal the identities of individual testers; this  
6 provision ensures that testers can continue to be used in compliance tests without  
7 compromising the integrity of the testing process.
- 8 27. The results of all tests conducted by the Testing Contractor pursuant to this  
9 section, along with supporting documentation, shall be reported to Defendants  
10 and to the United States simultaneously within thirty (30) days of the conclusion  
11 of completed tests. If the United States determines that testing results indicate a  
12 possible violation of this Order, it shall notify Defendants of its concerns, and, to  
13 the extent there is a dispute between the Parties as to whether or what corrective  
14 action is required, the Parties shall use the dispute resolution procedures  
15 described in paragraph 43.
- 16 28. The United States may take steps to monitor Defendants' compliance with the  
17 Fair Housing Act and this Consent Order including, but not limited to, conducting  
18 fair housing tests at any dwelling in which any Defendant, now or in the future,  
19 has a direct or indirect ownership, management, or financial interest.

20 **VIII. RECORDKEEPING**

- 21 29. Throughout the duration of this Consent Order, Defendants shall preserve and  
22 maintain the following:
- 23 a. Vacancy Reports;
  - 24 b. Inquiry Logs;
  - 25 c. Wait Lists;
  - 26 d. Rental Applications;
  - 27 e. Leases and Tenant Files;
  - 28 f. Nondiscrimination policies;

- 1 g. Uniform Nondiscriminatory Procedures; and
- 2 h. Tenant rules and regulations.

3 **IX. REPORTING REQUIREMENTS**

4 30. Within one hundred twenty days (120) days of the entry of this Order, Defendants  
5 shall submit the following records to counsel for the United States:

- 6 a. Copies of all written verifications of the training (see Appendix A)  
7 conducted pursuant to the requirements set forth above;
- 8 b. Verification that the Los Angeles County Residential Rental Properties  
9 display the Fair Housing Poster as required by the terms enumerated above;
- 10 c. Copies of any existing tenant rules and regulations;
- 11 d. A copy of the form of all of the documents required in Paragraph 29.

12 31. Beginning one (1) year after the entry of this Consent Order, and every one (1)  
13 year thereafter for the duration of this Consent Order, except for the final  
14 submission which shall be submitted two months before the termination of the  
15 Consent Order, Defendants shall deliver to counsel for the United States: copies  
16 of all written verifications of the training (see Appendix A) conducted pursuant to  
17 the requirements enumerated in Paragraph 21 since the last submission.

18 Defendants shall also advise counsel for the United States, in writing, within  
19 thirty (30) days of receipt of any lawsuit or any administrative complaint (other  
20 than unlawful detainer complaints) against Defendants or against any of  
21 Defendants' employees, agents or residential rental properties or dwellings,  
22 regarding alleged discrimination based on race, color, national origin, or familial  
23 status. This notification shall include a copy of the complaint (if possessed).

24 Upon request by the United States, Defendants shall provide any and all records  
25 relating to such complaint. Defendants shall also advise counsel for the United  
26 States, in writing, within fifteen (15) days of the resolution of any such complaint.

1 **X. DAMAGES FOR AGGRIEVED PERSONS**

2 32. Within thirty (30) days of the entry of this Order, the Defendants shall pay a total  
3 of \$2,625,000, which together with the other terms of this Consent Order, shall  
4 constitute a full and final settlement of any and all claims alleged in the Actions.

5 33. The payment of \$2,625,000 ("Fund") shall be made to a third party settlement  
6 fund administrator selected by the United States ("Fund Administrator"). The  
7 Fund Administrator shall be responsible for disbursing funds in accordance with a  
8 separate order ("Disbursement Order") submitted by the United States and  
9 approved by the Court. The Disbursement Order shall set forth the amounts to be  
10 paid to plaintiffs in these Actions and to other allegedly Aggrieved Persons  
11 identified in the Disbursement Order. Defendants shall not have any right to  
12 object to the terms of the Disbursement Order.

13 34. The fees of the Fund Administrator shall be paid from the Fund.

14 35. Any interest accruing to the Fund shall become a part of the Fund and be utilized  
15 as set forth herein.

16 36. Prior to receiving any payment from the Fund, the recipient shall execute a  
17 Release in the form attached as Appendix B for Aggrieved Persons. The parties to  
18 the Tyrrell Action will execute a mutual release. Defendants shall be provided  
19 with a copy of all executed Releases prior to distribution from the Fund to an  
20 aggrieved person or plaintiff.

21 37. In the event that less than the total amount in the Fund including accrued interest  
22 is distributed to aggrieved persons, the remainder shall be distributed consistent  
23 with the terms of the Disbursement Order to a qualified organization(s) mutually  
24 agreed upon by the United States and Defendants, subject to the approval of the  
25 Court, for the purpose of conducting fair housing enforcement or educational  
26 activities in Los Angeles County, with a particular focus on the City of Los  
27 Angeles.

28

1 38. Defendants shall permit the United States, upon reasonable notice, to review any  
2 relevant records that may facilitate its determinations regarding the claims of  
3 alleged aggrieved persons.

4 **XI. CIVIL PENALTY**

5 39. Defendants shall pay a total sum of \$100,000 to the United States as a civil  
6 penalty pursuant to 42 U.S.C. § 3614(d)(1)(C). Said sum shall be paid within  
7 thirty (30) days of the date of entry of this Order by submitting a check to counsel  
8 for the United States made payable to the United States of America.

9 40. By consenting to entry of this Consent Order, the United States and Defendants  
10 agree that in the event Defendants engage in any future violation(s) of the Fair  
11 Housing Act in any rental or management capacity beginning after entry of the  
12 Consent Order, such violation(s) shall constitute a "subsequent violation"  
13 pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii).

14 **XII. DURATION AND ENFORCEMENT OF CONSENT ORDER**

15 41. This Consent Order shall remain in effect for three (3) years from the date of the  
16 entry of this Consent Order.

17 42. All claims and counterclaims of all Parties shall be dismissed with prejudice,  
18 except that the Court shall retain jurisdiction over the Parties for the duration of  
19 this Consent Order to enforce the terms of the Consent Order.

20 43. The United States and Defendants shall employ their best efforts to resolve any  
21 differences that arise in the implementation or interpretation of this Consent  
22 Order. If either party believes that the other party has violated this Consent  
23 Order, the non-breaching party shall give written notice to the other party of the  
24 alleged violation. The Parties shall meet and confer in an effort to resolve the  
25 alleged violation. In the event that such meet and confer efforts fail, either party  
26 may bring the matter to the Court's attention for resolution. In the event of a  
27 failure by either party to perform in a timely manner any act required by this  
28 Order or otherwise to act in conformance with any provision thereof, the non-

1 breaching party may move this Court to impose any remedy authorized by law or  
2 equity which may have been occasioned by either party's violation or failure to  
3 perform.

4 44. The United States may move the Court to extend the duration of the Consent  
5 Order in the interests of justice.

6 **XIII. TIME FOR PERFORMANCE**

7 45. Any time limits for performance imposed by this Consent Order may be extended  
8 by the mutual written agreement of the Parties.

9 **XIV. COSTS OF LITIGATION**

10 46. Each party to this Consent Order shall bear its own costs and attorneys' fees  
11 associated with this litigation.

12  
13 **ORDERED** this 12 day of November, 2009:

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16 HONORABLE DALE S. FISCHER  
17 UNITED STATES DISTRICT JUDGE  
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1 **SIGNATURE OF THE PARTIES**

2 The Parties consent to the entry of this Consent Order as indicated by the signatures of  
3 counsel below:

4  
5 For the United States Department of Justice:

6 on \_\_\_\_\_, 2009, by:

7 **GEORGE S. CARDONA**  
8 Acting United States Attorney  
9 Central District of California

**THOMAS E. PEREZ**  
Assistant Attorney General  
Civil Rights Division

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**LEON W. WEIDMAN**  
Chief, Civil Division  
**KEVIN B. FINN**  
Assistant United States Attorney  
Calf. Bar No. 128072  
Federal Building, Suite 7516  
300 N. Los Angeles Street  
Los Angeles, CA 90012  
Fax: (213) 894-7327

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**STEVEN H. ROSENBAUM**  
Chief  
**TIMOTHY J. MORAN**  
Deputy Chief  
**JULIE J. ALLEN**  
**R. TAMAR HAGLER**  
**ANDREA K. STEINACKER**  
**CHRISTOPHER J. FREGLIATO**  
**JENNIFER L. MARANZANO**  
**LUCY G. CARLSON**  
Attorneys  
Housing and Civil Enforcement Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W. - G St.  
Washington, D.C. 20530  
Phone: (202) 514-4713  
Fax: (202) 514-1116

1 FOR THE TYRRELLS:

2 on \_\_\_\_\_, 2009, by:

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5

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6 Christopher Brancart  
7 Elizabeth Brancart  
8 Brancart & Brancart  
9 Post Office Box 686  
10 Pescadero, CA 94060  
11 cbrancart@brancart.com  
12 Tel: (650) 879-0141  
13 Fax: (650) 879-1103

13 FOR THE RHODES:

14 on \_\_\_\_\_, 2009, by:

15  
16

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17 Paul J. Estuar  
18 Litt, Estuar, Harrison & Kitson, LLP  
19 1055 Wilshire Boulevard, Suite 1880  
20 Los Angeles, CA 90017  
21 rsobie@littlaw.com  
22 Tel: (213) 386-3114  
23 Fax: (213) 386-4585

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FOR DEFENDANTS:

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Robert H. Platt	Date
Ileana M. Hernandez	
Manatt, Phelps & Phillips, LLP	
11355 West Olympic Boulevard	
Los Angeles, CA 90064	
rplatt@manatt.com	
Tel: (310) 312-4221	
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**APPENDIX A-1**

**Certification of Fair Housing Training Attendance And Acknowledgment of  
Receipt of Nondiscrimination Policy and Uniform and Nondiscriminatory  
Procedures**

I certify that I attended fair housing training on [Insert Date]. I attended the full training course provided on that date.

I also certify that I have received, read, and understood Beverly Hills Properties' Nondiscrimination Policy and Uniform and Nondiscriminatory Procedures.

Trainer's Name: \_\_\_\_\_  
Trainer's Signature: \_\_\_\_\_

\_\_\_\_\_  
(Trainee's Signature)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Trainee's Position)

\_\_\_\_\_  
(Date)

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**APPENDIX A-2**

**Acknowledgment of Receipt of Nondiscrimination Policy  
and Uniform and Nondiscriminatory Procedures**

I certify that I have received, read, and understood Beverly Hills Properties'  
Nondiscrimination Policy and Uniform and Nondiscriminatory Procedures.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Position)

\_\_\_\_\_  
(Date)

1 APPENDIX B

2 Release of Claims

3 That for and in consideration of the payment of \_\_\_\_\_  
4 (\$ \_\_\_\_\_), and pursuant to the terms of the stipulated Consent Order between the  
5 parties to the action set forth below (the "Consent Order"), \_\_\_\_\_ ("Releasor"), on  
6 behalf of himself/herself hereby acknowledges full accord, satisfaction, and settlement  
7 of any and all actions, causes of action, damages or claims of damage of every character  
8 whatsoever, known or unknown, arising out of the facts and allegations contained in the  
9 pleadings of *United States of America v. Donald Sterling, et al.*, Case No. 06-4885 DSF  
(Ex), in the United States District Court for the Central District of California  
(hereinafter "this action").

10 Subject to the terms of the Consent Order, I hereby satisfy and settle the aforesaid  
11 claims and hereby satisfy, release, and forever discharge Donald Sterling, Rochelle  
12 Sterling, the Sterling Family Trust, and the Korean Land Company, their past, present  
13 and future heirs, administrators, executors, assigns, employees, and agents  
14 ("Defendants") from any and all actions, causes of action, damages, or claims of  
15 damage of every character whatsoever which I have or may claim or could have claimed  
16 to have against Defendants, from the beginning of the World through and including the  
17 date of this Release, arising out of the facts and allegations contained in this action.

18 The Parties intend this Release to be as broad as possible and to include all  
19 present, past or future claims against Defendants for any and all actual compensatory,  
20 punitive, statutory, or any other damages, including attorneys' fees, costs, and expenses  
21 in any way arising or connected with claims of housing discrimination against  
22 Defendants that accrued prior to the date of this Order.

23 This settlement is intended to and does cover, but is not limited to, medical as  
24 well as all other expenses, including but not limited to, pain and suffering, emotional  
25 distress, relocation expenses, lost wages, lost earning capacity, loss of services, and any  
26 and all other and further claims arising out of the facts and allegations contained in this  
27 action from the beginning of the World through and including the date of this Release.  
28 Said sum is also paid and received subject to the terms of the Consent Order, and in full  
and final settlement of the causes of action set forth in this action. I acknowledge and  
understand that, by signing this Release and accepting this payment, I am waiving any  
right to pursue my own legal action based on the discrimination alleged by the United  
States in this case. The undersigned declares that the terms of this Release have been  
agreed to voluntarily for the purpose of making full and final compromise, adjustment,  
and settlement of any and all claims, disputed or otherwise, on the account of the injury  
or damages noted above and for the expressed purposes of precluding, forever, any  
further additional claims against Defendants arising out of the matters alleged in this

1 Action from the beginning of the World through and including the date of this Release.

2 I also acknowledge that I am familiar with the provisions of California Civil Code  
3 Section 1542 and expressly agree that the release set forth above constitutes a waiver  
4 and release of any rights or benefits that may arise thereunder, to the full extent that  
5 such rights or benefits may be waived. Section 1542 of the California Civil Code  
6 provides:

7 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
8 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS/HER**  
9 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**  
10 **KNOWN BY HIM/HER MUST HAVE MATERIALLY AFFECTED HIS/HER**  
11 **SETTLEMENT WITH THE DEBTOR.**

12 Thus, notwithstanding the provisions of Section 1542, and for the purpose of  
13 implementing a full and complete release and discharge of all claims arising out of this  
14 action, I expressly acknowledge that this Release is also intended to include in its effect,  
15 without limitation, all claims arising out of this action which I do not know or expect to  
16 exist in my favor at the time of execution hereof, and that this Release contemplates the  
17 extinguishment of any such claim or claims.

18 I further acknowledge that I have been informed that I may review the terms of  
19 this Release with an attorney of my choosing, and to the extent that I have not obtained  
20 that legal advice, I voluntarily and knowingly waive my right to do so.

21 I have read this Release, and acknowledge that I understood it fully and sign it  
22 voluntarily.

23 \_\_\_\_\_  
24 Signature

25 \_\_\_\_\_  
26 Print Name

27 \_\_\_\_\_  
28 Date



4. Defendant has its principal place of business at 4705 S. 129<sup>th</sup> E. Avenue, Tulsa, Oklahoma 74134. Defendant is a private entity within the meaning of Section 301 of the ADA, 42 U.S.C. § 12181, and 28 C.F.R. § 36.104. The convenience stores, fuel stations, and truck stop and travel centers owned, operated, and/or altered by Defendant are places of public accommodation covered by Title III of the ADA. 28 C.F.R. § 36.104. Because Defendant owns, operates, designs, constructs, and alters places of public accommodation, Defendant is covered by, and subject to the requirements of, Title III of the ADA. 42 U.S.C. §§ 12181(7)(F), (7)(E), and 12183. For purposes of this Consent Decree, "QuikTrip Store" shall mean and refer to any place of public accommodation owned or operated by QuikTrip.
5. Defendant denies the allegations in the Complaint that it discriminated against the Complainants or other persons with disabilities. Defendant avers that it has defenses to each and every claim and that it voluntarily sought to remedy self-identified ADA violations prior to entering into this Consent Decree with the United States. Specifically, QuikTrip contends that it initiated an accessibility improvement program that it believes to be sufficient to comply with ADA requirements. The United States disagrees with QuikTrip's contentions. Defendant is entering into this Consent Decree to avoid the costs of further litigation with the United States. Nothing in this Consent Decree shall be interpreted as an admission of liability for violations of the ADA.

#### **B. Relevant Provisions of the Americans with Disabilities Act**

6. The ADA prohibits public accommodations, including those that own and operate convenience stores, fuel service stations, and truck stop and travel center facilities, from discriminating against individuals on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodation. 42 U.S.C. § 12182(a); 28 C.F.R. § 36.201.
7. The ADA also prohibits the failure to design and construct convenience stores, fuel service stations, truck stop and travel center facilities, and other places of public accommodation and commercial facilities built for first occupancy after January 26, 1993, to be readily accessible to and usable by individuals with disabilities in accordance with the ADA Standards. 42 U.S.C. § 12183(a)(1); 28 C.F.R. §§ 36.401, 36.406(a).
8. The ADA further prohibits the failure to make alterations to convenience stores, fuel service stations, truck stop and travel center facilities, and other places of public accommodation and commercial facilities in such a manner that, to the maximum extent feasible, the altered portions of the facilities are readily accessible to and usable by individuals with disabilities in accordance with the ADA Standards. 42 U.S.C. § 12183(a)(2); 28 C.F.R. §§ 36.402, 36.403, 36.406(a).
9. The ADA additionally prohibits the failure to remove architectural barriers at convenience stores, fuel service stations, truck stop and travel center facilities, and other places of public accommodation where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv); 28 C.F.R. § 36.304.

#### **C. Consent of the Parties to Entry of this Decree**

10. The Parties agree that the Court has jurisdiction of this action pursuant to 42 U.S.C. § 12188(b)(1)(B) and 28 U.S.C. §§ 1331 and 1345. The Parties further agree that the controversy can and should be resolved without further proceedings and without an evidentiary hearing.
11. As indicated by the signatures appearing below, the Parties agree to entry of this Consent Decree by the Court.

**It is hereby ADJUDGED, ORDERED, and DECREED:**

#### **II. GENERAL NONDISCRIMINATION REQUIREMENTS**

12. Defendant, and each of its officers, employees, agents, successors, and assigns, and all others in active concert or participation with Defendant, are permanently enjoined from:
  - a. Discriminating against an individual on the basis of disability or taking any other action in violation of Title III of the ADA, 42 U.S.C. §§ 12181 - 12189; Section 503 of the ADA, 42 U.S.C. § 12203; or the Title III Regulation, 28 C.F.R. pt. 36;
  - b. Failing or refusing to design and construct QuikTrip Stores that are readily accessible to and usable by individuals with disabilities in full compliance with 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§ 36.401 and 36.406, and the ADA Standards;
  - c. Failing or refusing to make alterations to QuikTrip Stores in full compliance with 42 U.S.C. § 12183(a)(2), 28 C.F.R. §§ 36.402 - 36.406, and the ADA Standards;
  - d. Failing or refusing to remove barriers at QuikTrip Stores where readily achievable in full compliance with 42 U.S.C. § 12182(b)(2)(iv) and 28 C.F.R. § 36.304;
  - e. Failing or refusing to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford individuals with disabilities an equal opportunity to access goods, services, facilities, privileges, advantages, or accommodations in full compliance with 42 U.S.C. § 12182(b)(2)(A)(ii) and 28 C.F.R. § 36.302;
  - f. Failing or refusing to maintain accessible features in operable working condition in full compliance with 28 C.F.R. § 36.211; and
  - g. Failing or refusing to take any action, or refrain from taking any action, when necessary to avoid discrimination against an individual on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any and all QuikTrip Stores, 42 U.S.C. § 12182(a).

### **III. ACTIONS TO REMEDY NONCOMPLIANCE WITH ACCESSIBILITY REQUIREMENTS AT QUIKTRIP STORES**

13. To ensure that convenience stores, fuel service stations, truck stop and travel center facilities, and other places of public accommodation owned or operated by QuikTrip are readily accessible to and usable by individuals with disabilities, QuikTrip will make physical, operational, and other modifications necessary to bring any and all such facilities into compliance with the ADA Standards according to the Schedule in Paragraph 14. Such modifications shall include but not be limited to the items listed in Exhibit A to this Consent Decree.
14. QuikTrip has retained an Independent Licensed Architect trained in and highly knowledgeable about the architectural accessibility requirements of the ADA. This Independent Licensed Architect ("ILA"), paid by QuikTrip and approved by the United States, must certify compliance with all of the elements of Paragraph 13 of this Consent Decree and the ADA Standards for each QuikTrip Store. QuikTrip must complete modifications at its Stores in sufficient time so that it can achieve certifications of compliance from the ILA in accordance with the following deadlines:
  - a. One third of QuikTrip Stores open as of the Effective Date of this Consent Decree will achieve certification of compliance with the ADA Standards and the elements of Paragraph 13 of this Consent Decree by the ILA by no later than the end of the 12<sup>th</sup> month after the Effective Date of this Consent Decree.
  - b. Two thirds of the QuikTrip Stores open as of the Effective Date of this Consent Decree, will achieve certification of compliance with the ADA Standards and the elements of Paragraph 13 of this Consent Decree by the ILA by no later than the end of the 24<sup>th</sup> month after the Effective Date of this Consent Decree.



- c. All of the QuikTrip Stores open as of the Effective Date of this Consent Decree will achieve certification of compliance with the ADA Standards and the elements of Paragraph 13 of this Consent Decree by the ILA by no later than the end of the 36<sup>th</sup> month after the Effective Date of this Consent Decree.
  - d. Within ten (10) days after the Effective Date of this Consent Decree, QuikTrip will submit to the United States a schedule listing the QuikTrip Stores that will be certified pursuant to Paragraphs 14.a. through 14.c.
15. In issuing certifications pursuant to this Consent Decree, the ILA retained pursuant to Paragraph 14 will use the certification form set out at Exhibit B. QuikTrip will maintain such certifications issued by the ILA in its records and include copies of such certifications in its reports to the United States regarding compliance with this Consent Decree. In determining compliance, the ILA may not rely on equivalent facilitation in lieu of compliance with a particular Standard, or an innovative site-specific accessibility solution, unless the ILA has received prior approval to do so from an Independent Licensed Architect who is retained by the United States to serve as an expert in this case ("USILA"). Any request for approval to rely on equivalent facilitation shall include an identification of the specific facility at issue (*i.e.*, type of facility and address) and a detailed written analysis by the ILA of how and why the particular departure from the Standard is a design or technology that will provide substantially equivalent or greater access to and usability of that facility. Similarly, any request for approval to rely on an innovative site-specific accessibility solution shall include an identification of the specific facility at issue (*i.e.*, type of facility and address) and a detailed written analysis by the ILA of how and why the solution is appropriate under the circumstances and consistent with ADA requirements. Innovative site-specific accessibility solutions include, but are not limited to, determinations regarding the appropriate placement of accessible parking spaces, and associated curb ramps and accessible routes, at about twenty (20) QuikTrip Stores where trucks delivering fuel currently block access to accessible parking spaces because of the location of fueling fill ports, and readily achievable barrier removal on small sites with steep slopes. QuikTrip and the ILA will provide the USILA with requested information and documents that the USILA deems necessary to make determinations regarding equivalent facilitation and innovative site-specific accessibility solutions, which may include, if requested by the USILA, access to QuikTrip Stores. In making determinations on novel and complex issues relating to ADA compliance at QuikTrip Stores, the USILA will consult, as needed, with counsel for the United States.

#### IV. NON-DISCRIMINATION IN FUTURE QUIKTRIP FACILITIES

16. QuikTrip shall ensure that each facility designed, constructed, purchased, leased, or otherwise acquired by or on behalf of QuikTrip ("Future QuikTrip Stores") shall comply in all respects with the requirements of Title III of the ADA, the Title III Regulation, the ADA Standards, and this Consent Decree before a Future QuikTrip Store is opened for business. During the term of this Consent Decree, before opening any Future QuikTrip Store, QuikTrip shall obtain a Certification of ADA Compliance, using Exhibit B, from the ILA or a Certification of ADA Compliance, using Exhibit C, from either a Licensed Architect retained and paid by QuikTrip ("LA"), or a QuikTrip Construction/Project Manager or equivalent ("CM"). Any LA or CM who issues a certification must be trained regarding the ADA and the procedures for certification of ADA compliance by either the ILA or the USILA. QuikTrip will maintain such certifications in its records and include copies of such certifications in its reports to the United States pursuant to Paragraph 37 of this Consent Decree.
- a. The ILA shall conduct pre-occupancy certifications of no fewer than 10% of Future QuikTrip Stores that open within three years after the Effective Date of this Consent Decree, using the ADA Certification Form attached as Exhibit B. QuikTrip estimates that it will open 150 Future QuikTrip Stores during that three year period. The ILA will certify compliance at any additional Future QuikTrip Stores using Exhibit B if, in his professional judgment, without prior approval by or consultation with QuikTrip, his participation in the certification process is required to ensure ADA compliance.

- b. At all Future QuikTrip Stores in which the ILA does not certify ADA compliance, a Certification of ADA Compliance shall be issued pre-occupancy by either an LA or CM using the form at Exhibit C.
- c. During the four months immediately following the Effective Date of this Consent Decree, Certifications of ADA Compliance will be issued no later than four months after the opening date for that Future QuikTrip Store.
- d. In some circumstances, QuikTrip may open Future QuikTrip Stores in two (2) phases. In those circumstances, there will be two (2) phases of pre-occupancy certifications: the convenience store opening pre-occupancy certification phase and the fuel dispensers opening pre-occupancy certification phase. All requirements of this Consent Decree, except for the requirements for fuel dispensers and accessible routes to the accessible fuel dispensers shall be required for certification under the convenience store pre-occupancy certification phase. The remainder shall be required for certification under the fuel dispensers pre-occupancy certification phase.<sup>(1)</sup>

#### V. ENSURING EQUAL ACCESS TO CUSTOMERS WITH DISABILITIES

17. It is QuikTrip's policy to provide prompt and courteous service to all customers, including customers with disabilities. Consistent with this policy, to ensure that individuals with disabilities have an equal opportunity to enjoy the goods, services, facilities, privileges, advantages, and accommodations of its facilities, QuikTrip shall take the following actions:
- a. **Indoor and Outdoor Assistance.** Beginning as of the Effective Date of this Consent Decree and continuing throughout its term, QuikTrip, upon request, shall provide prompt and courteous fueling and other types of assistance, to individuals with disabilities, free of charge, at all current and future QuikTrip Stores. Following are examples of the types of assistance that QuikTrip will provide: cleaning windshields; opening doors; assistance in locating, retrieving, and carrying merchandise; reading product labels and prices and providing wayfinding assistance to customers who are blind or have low vision; and assistance in operating equipment, including food and beverage service equipment, vending machines, and point-of-sale payment devices.
  - b. **Adoption, Distribution, Maintenance, and Enforcement of Policies.** QuikTrip shall adopt, implement, maintain, and enforce the policies attached hereto as Exhibit D (QuikTrip Policy on Access, Service and Assistance for Customers with Disabilities) and Exhibit E (QuikTrip Policy Regarding Service Animals for People with Disabilities) beginning as of the Effective Date of this Consent Decree and continuing throughout its term. Within sixty (60) days after the Effective Date of this Consent Decree, QuikTrip shall distribute copies of these policies to the managers and assistant managers of all QuikTrip stores that are open to the public for business. Within ninety (90) days after the Effective Date of this Consent Decree, QuikTrip shall require managers and assistant managers to share these policies with all current employees and thereafter, to share these policies with new employees before a new employee begins performing duties that involve contact with customers. It is QuikTrip's responsibility to ensure that each employee having contact with customers understands these policies, the actions required to comply with the policies, and the consequences of noncompliance. The policies distributed to managers, assistant managers, and employees shall be substantially in the forms attached to this Consent Decree as Exhibits D and E. The policies may be supplemented by additional information or procedures to implement these policies. QuikTrip shall redistribute copies of these policies to managers and assistant managers, who will share these policies with employees, at least annually thereafter. Within thirty (30) days after the Effective Date of this Consent Decree, QuikTrip shall also post and maintain these policies on its website, in an accessible and conspicuous location (*i.e.*, directly linked from the homepage of quiktrip.com) and format (*i.e.*, HTML), where the policies can be readily found and reviewed by members of the public.
  - c. **Training.** Within ninety (90) days after the Effective Date of this Consent Decree, QuikTrip shall train all of its employees having contact with customers regarding the requirements of this Consent

Decree and the ADA relating to nondiscrimination in the retail setting. The training shall cover the policies at Exhibits D and E and the following most common types of assistance that QuikTrip employees will provide to customers with disabilities, upon request, in a prompt and courteous manner, without any extra charge: fueling assistance; cleaning a windshield; opening doors; assisting in locating, retrieving, and carrying food, drinks, or merchandise; reading product labels and prices and providing wayfinding assistance to customers who are blind or have low vision; and assistance in operating equipment, including food and beverage service equipment, vending machines, and point-of-sale payment devices. The training also shall include the requirement to ensure effective communication (e.g., accepting and communicating on relay calls and using pen and paper to communicate with people who are deaf, are hard of hearing, or have speech impairments), the requirement to make reasonable modifications in policies, practices, and procedures (e.g., accepting large print checks from people with low vision, making exceptions to "no pet" policies for people accompanied by service animals), and the requirement to maintain accessible features (e.g., removing snow and ice from accessible parking spaces and other outdoor accessible features).

- d. Training for New Employees. Throughout the term of this Consent Decree, the training described in Paragraph 17.c. shall be provided to all new employees before they begin performing duties involving customer contact.
- e. Refresher Training. The training described in Paragraph 17.c. shall be provided to each QuikTrip employee having customer contact at least once during each year throughout the term of this Consent Decree.
- f. Notification System for Outdoor Assistance. QuikTrip already has, and agrees to maintain in current QuikTrip Stores and Future QuikTrip Stores, a call button notification system that is available at each fueling position. This call button notification system is available for use by all customers, including customers with disabilities, who need outdoor assistance. Within one-hundred eighty (180) days after the Effective Date of this Consent Decree, QuikTrip shall test and if necessary modify or upgrade its call button notification system at each fueling position at each QuikTrip Store to ensure that each call button functions effectively in providing QuikTrip personnel inside the QuikTrip Store with a notification that assistance is required outdoors and identifies the fueling position at which assistance is required.
- g. Notification System Signage. Each call button shall include appropriate signage indicating the policy of providing fueling and other assistance to individuals with disabilities, which shall be conspicuous and easily readable from within a vehicle. Additionally, the signage at each store shall have the store's phone number posted for individuals to make phone calls to request assistance in the event the notification system malfunctions. 28 C.F.R. § 36.302(a); ADA Standards § 4.30. Within sixty (60) days after the Effective Date of this Consent Decree, QuikTrip shall propose signage language to counsel for the United States for review and approval. After approval by the United States, signage shall be installed at each fueling position within sixty (60) days and thereafter maintained and refreshed, as necessary, so it remains readable by persons who are sitting in their vehicles at the associated fueling position.
- h. Maintenance of Accessible Features. Beginning as of the Effective Date of this Consent Decree and continuing throughout its term, QuikTrip shall undertake the following steps to ensure that QuikTrip Stores are maintained so they are accessible to individuals with disabilities:
  - i. QuikTrip shall establish and implement a process of ensuring that its controls and operating mechanisms, systems, and procedures used for obtaining fueling and other assistance are maintained in good working order and are tested on a schedule of not less than once each week per store.
  - ii. QuikTrip shall establish and implement a process of ensuring that accessible parking

spaces, accessible routes, curb ramps, and all other outdoor accessible elements at QuikTrip Stores are maintained in accessible condition, free of built-up snow, ice, debris, and standing water.

- i. Blocking Objects. Delivery trucks and other vehicles may not block or obstruct an accessible parking space, route, and/or curb ramp. ADA Standards §§ 4.4.1, 4.7.8. QuikTrip Store personnel shall be trained to check the location of delivery trucks upon knowledge of delivery personnel arrival and to ensure that accessible parking, routes, and curb ramps are not blocked by delivery trucks before accepting a delivery. To maintain the accessibility of parking spaces reserved for persons with disabilities, QuikTrip will install signage at accessible parking spaces that makes clear that such spaces may not be used or blocked by delivery trucks/deliveries and provides the store phone number and an ADA Complaint phone number so that customers may complain about delivery trucks blocking the spaces. Such signage shall be installed so that it remains visible to individuals who are unable to leave their vehicles to approach the signage when a delivery truck is parked in the accessible parking space.
  - j. Actions to Ensure Employee Compliance with Policies. QuikTrip shall take appropriate action, including disciplinary action, against any employee who fails to comply with the requirements of Paragraph 17 of this Consent Decree after receiving training regarding those requirements. The action taken will be consistent with the action QuikTrip ordinarily takes for an employee's violation of a federal, state, or local law or important QuikTrip company policy. QuikTrip will maintain records regarding significant corrective actions taken pursuant to this provision of the Consent Decree and, in its reporting to the Department, shall include a description of such actions and the date of and reason why the action was taken but need not disclose the identity of an individual employee subjected to disciplinary action.
18. Accessibility Maintenance Checklist. Annually, at the same time that QuikTrip distributes the policies referenced in Paragraph 17.b., QuikTrip shall also distribute to each store manager an Accessibility Maintenance Checklist substantially in the form attached to this Consent Decree as Exhibit F. The manager at each QuikTrip Store shall complete the Checklist and return it to QuikTrip's General Counsel within sixty (60) days after the distribution date. QuikTrip shall provide copies of completed Checklists that its General Counsel has received during the preceding six months to the United States as part of the reporting required pursuant to this Consent Decree, together with a list of actions taken at each QuikTrip Store in response to deficiencies identified through the completed Checklists.
19. Within ninety (90) days after the Effective Date of this Consent Decree, QuikTrip shall obtain and implement a toll-free telephone number ("ADA Comment Line") that is used solely to receive comments and complaints from customers and members of the public relating to QuikTrip's service and facilities for individuals with disabilities ("ADA-related Complaints"). This ADA Comment Line will be answered by one or more employees who are trained regarding the requirements of Title III of the ADA, the terms of this Consent Decree, the use of relay services, and communication with individuals who are deaf, are hard of hearing, or have speech impairments. This telephone number will be the same number that is posted on accessible parking signs to address complaints of delivery trucks/deliveries blocking accessible parking, as referenced in Paragraph 17.i. Within ninety (90) days after the Effective Date of this Consent Decree, QuikTrip will also post this telephone number on its website below the link to its website accessibility policy.
20. Within ninety (90) days after the Effective Date of this Consent Decree, QuikTrip shall post and maintain at each QuikTrip facility open to the public for business at any time during the term of this Consent Decree a sign or decal containing the toll-free telephone number of the ADA Comment Line and including the substance of the text contained in Exhibit G to this Consent Decree. The sign or decal shall be printed in bold, easily readable print on a contrasting background, shall be at least 9 inches tall by 12 inches wide, and shall be posted in a conspicuous location and maintained and refreshed, as necessary, so that it can be easily observed and read by a customer with a disability who is outside a QuikTrip Store

and unable to leave his or her vehicle. QuikTrip also shall post, maintain, and refresh, as necessary, such a sign or decal at each Future QuikTrip Store that opens for business at any time during the term of this Consent Decree before the Store opens for business.

21. QuikTrip shall be responsible for receiving and investigating all ADA Title III-related complaints by customers received at its ADA Comment Line or otherwise directed to its corporate offices. Within ninety (90) days after the Effective Date of this Consent Decree, QuikTrip shall post the toll-free telephone number for its ADA Comment Line on its internet website (within the domain <http://quiktrip.com/>) in a website location that is directly linked to its homepage and easy for customers with disabilities to find. Consistent with the requirements of Title III of the ADA, the toll-free number shall be posted in an accessible format (*e.g.*, HTML) and accessible location. Within sixty (60) days after the Effective Date of this Consent Decree, QuikTrip shall designate and train one or more of its headquarters employees (ADA Coordinator(s)) who will be responsible for receiving and investigating ADA Title III-related complaints so that such employee(s) are knowledgeable regarding the requirements of Title III applicable to QuikTrip, including effective communication, reasonable modifications, the maintenance of accessible features, architectural requirements, and the terms of this Consent Decree.
22. Throughout the term of this Consent Decree, QuikTrip will receive and respond to any disability-related complaints about facilities or services by a customer ("ADA-related Complaint") directed to its ADA Comment Line or otherwise directed to its corporate offices as follows: (A) within five (5) business days after an ADA-related Complaint is received, QuikTrip will commence an investigation, including contacting the complainant, if necessary, to find out the allegations of the complaint and will investigate the complaint with the appropriate QuikTrip staff where the complaint originated; and (B) QuikTrip will complete its investigation and respond to the complainant within thirty (30) days after the complaint is received, including discussing with the complainant, where appropriate, possible resolutions, including training or corrective actions for QuikTrip staff and relief for the complainant. QuikTrip will maintain written records of ADA-related Complaints by customers, its investigations, and its responses to those complaints throughout the life of this Consent Decree. Copies of such records will be provided to the United States pursuant to the reporting requirements of Paragraph 37 of this Consent Decree, and at any other time upon request.
23. ADA Coordinator(s). The ADA Coordinator(s) designated pursuant to Paragraph 21 of this Consent Decree shall coordinate QuikTrip's effort to comply with and carry out its responsibilities under the ADA and this Consent Decree, including the investigation of ADA-related Complaints, the coordination of corrective actions and relief for complainants to resolve ADA-related Complaints, and maintaining records of ADA-related Complaints, investigations, and actions taken to comply with this Consent Decree. QuikTrip shall make available on its website, in an accessible and conspicuous location (*i.e.*, directly linked from the homepage of [quiktrip.com](http://quiktrip.com)) and format (*i.e.*, HTML), the name(s), office address(es), telephone number(s), and email addresses of the ADA Coordinator(s).
24. In addition to operating stores, QuikTrip operates a website.
25. Website Accessibility. QuikTrip has already initiated a program to improve the accessibility of its website. In connection with this initiative, within one (1) month after the Effective Date of this Consent Decree, QuikTrip shall adopt, and thereafter maintain, a policy of nondiscrimination on the basis of disability in providing effective communication via its website. The policy provided as Exhibit H meets the requirements of this provision. Before adopting a policy that is substantially different from the policy provided as Exhibit H, QuikTrip shall submit such policy to the Department for review and approval and shall incorporate comments provided by the Department before adopting the policy.
  - a. Within two (2) months after the Effective Date of this Consent Decree, QuikTrip will distribute the policy to all persons - employees and contractors - who design, develop, maintain, or otherwise have responsibility for content and format of its website(s) or third party websites used by QuikTrip ("Internet Personnel"). Within three (3) months of the Effective Date of this Consent Decree, QuikTrip will provide training to Internet Personnel on website accessibility, including the

requirements set out in the policy at Exhibit H.

- b. Within three (3) months after the Effective Date of this Consent Decree, QuikTrip will undertake a Website Accessibility Assessment to evaluate the delivery of content on its website to ensure inclusion and integration of people with disabilities, including individuals who use screen readers or voice interactive software, who use text magnification programs, who require the ability to adjust font size and/or color to view webpages, who require audio description to access video content, and who require captions to access audio materials. The evaluation will take into consideration the following issues, but will also evaluate the website according to generally accepted standards for website accessibility, such as the Standards promulgated pursuant to Section 508 of the Rehabilitation Act of 1973, as amended:
  - i. For every image posted, including photographs, charts, color-coded information, or other graphics, QuikTrip will add a text equivalent to the image, to allow persons with disabilities who use screen readers or Braille displays to understand the basic content of the image or graphical element.
  - ii. All documents will be posted in a text based format that is compatible with assistive technology, and not as images that do not have text of the file's content in a format accessible to a screen reader and Braille display
  - iii. QuikTrip's website will allow Web browsers and other assistive technologies to manipulate colors and font settings on its webpages for individuals with low vision or color blindness to access the content.
  - iv. Videos and other multimedia will incorporate features to make them accessible to individuals with disabilities, including audio descriptions of images (including changes in setting, gestures, and other details) to make videos accessible to persons who are blind or have low vision, among others, and the provision of text captions synchronized with the video image to make video and audio tracks accessible to people who are deaf or hard of hearing.
  - v. Where appropriate, QuikTrip will also include the following considerations in developing webpages:
    - (1) The inclusion of a "skip navigation" link at the top of webpages that allows people who use screen readers to ignore navigation links and skip directly to webpage content;
    - (2) Minimizing the use of blinking, flashing, or other distracting features;
    - (3) If included, allowing moving, blinking, or auto-updating objects of pages to be paused or stopped;
    - (4) Online forms will include descriptive tags that provide persons with disabilities the information they need to complete and submit the forms;
    - (5) If sounds automatically play, visual notification and transcripts will also be provided;
    - (6) For pages that are auto-refreshing or that require a timed-response, providing a second, static copy of the page;
    - (7) Titles, context, and other heading structures will be provided to help users navigate complex pages or elements (such as webpages that use frames).
- c. Within three (3) months after the Effective Date of this Consent Decree, QuikTrip shall provide a

way for online visitors to request accessible information or services by posting a telephone number or e-mail address on its home page in a conspicuous and accessible location. In that same location, QuikTrip will provide a notice soliciting feedback from visitors to QuikTrip's website on how accessibility can be improved at QuikTrip and on QuikTrip's website and shall provide an accessible means of providing such information.

- d. Within four (4) months after the Effective Date of this Consent Decree, QuikTrip shall enlist people with a variety of disabilities to test its pages for accessibility.
- e. Within four (4) months after the Effective Date of this Consent Decree, QuikTrip shall develop a Website Accessibility Action Plan to address deficiencies in effective communication of content identified in the Website Accessibility Assessment, including the feedback provided by visitors to its website and from people with disabilities enlisted to test website accessibility, and the appropriate provision of auxiliary aids and services to achieve effective communication on its website.
- f. Within five (5) months after the Effective Date of this Consent Decree, QuikTrip shall implement the Website Accessibility Action Plan with appropriate auxiliary aids and services to achieve effective communication.
- g. During the second year and subsequent years of the term of this Consent Decree, QuikTrip shall perform the steps outlined in Paragraphs 25.a. through 25.f. within a comparable period of time.

#### **VI. COMPENSATORY DAMAGES TO COMPLAINANTS AND OTHER AGGRIEVED PERSONS**

26. Within ten (10) business days after the Effective Date of this Consent Decree, QuikTrip shall deposit the sum of One Million Five Hundred Thousand Dollars (\$1,500,000) in an interest-bearing account for the purpose of compensating Complainants and other aggrieved persons who may have been harmed by noncompliance with the ADA at one or more QuikTrip Stores and who may be identified through the procedures set forth in this Consent Decree. Also within ten (10) business days after the Effective Date of this Consent Decree, QuikTrip shall submit proof to the United States that the account has been established and the funds deposited. QuikTrip shall bear all costs of establishing the account, maintaining it, and issuing checks from it. Copies of account statements shall be promptly provided to the United States.
27. At least once each week during the ninety (90) days following the Effective Date of this Consent Decree, including on at least five Sundays, QuikTrip shall arrange and publish a Notice to Potential Victims of Disability Discrimination ("Notice") as follows:
  - a. Each Notice shall appear in the news sections of major newspapers in each market where QuikTrip does business and shall be at least an eighth (1/8) of a page in size;
  - b. Each Notice shall set forth a summary of the legal and evidentiary contentions of the United States and a general statement of the relief provided under this Consent Decree. Each Notice shall also contain a statement that the United States seeks information from any persons who claim to have been subjected to disability discrimination at a QuikTrip facility in connection with access to any facilities or services. Each Notice shall invite such persons to contact counsel for the United States concerning their complaints within ninety (90) days of the publication of the Notice. The text of this Notice shall be as set forth in Exhibit I; and
  - c. QuikTrip shall provide a copy of the newspaper containing each such Notice to counsel for the United States within three (3) days after publication of the Notice. QuikTrip shall notify counsel for the United States in writing of the date on which the last such notice was published within five (5) days after its publication.

28. Within five (5) business days after the Effective Date of this Consent Decree QuikTrip shall publish the Notice in an accessible format (*i.e.*, HTML) and in a prominent location on its website (quiktrip.com). QuikTrip shall maintain the Notice on its website for a period of ninety (90) days following publication on its website. The intent of this paragraph is to enable individuals with disabilities to readily locate the Notice on QuikTrip's website.
29. Within thirty (30) days after the date of entry of this Consent Decree, QuikTrip shall produce or permit representatives of the United States to review any complaints about access to any of its facilities or services that it has received from or on behalf of an individual alleged to have an impairment.
30. The United States may, in its sole discretion, use other methods to identify other aggrieved persons, and this Consent Decree shall not be construed to limit the United States' right to do so.
31. Allegedly aggrieved persons shall have until ninety (90) days after the date of the last published Notice within which to contact the United States to assert any claims in connection with this Consent Decree.
32. The United States shall determine which persons, who have timely contacted the United States, have been harmed by ADA violations at a QuikTrip facility and shall determine in its sole discretion an appropriate amount of damages to be awarded to each such person, provided that:
  - a. No person shall be paid pursuant to this Section of the Consent Decree until the United States has received an executed "Waiver and Release of Claims" form from that person that is substantially similar to the document attached to this Consent Decree as Exhibit J. A copy of the executed "Waiver and Release of Claims" forms shall be provided to QuikTrip by the United States.
  - b. The total amount to be paid by QuikTrip pursuant to this Section of the Consent Decree shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000) plus any interest accrued in the account established under Paragraph 26.
33. The United States shall notify QuikTrip in writing in one or more notifications of its determinations of the amount to be paid to each aggrieved person. Within thirty (30) days after receiving each such written notification, QuikTrip shall deliver to counsel for the United States checks to the aggrieved persons payable as directed in the written notification.
34. In the event that the United States distributes a total amount of compensatory damages pursuant to this Section of the Consent Decree that is less than the total amount of funds in the account established pursuant to Paragraph 26, including accrued interest, the remaining funds shall be paid to non-profit organizations serving the interests of individuals with disabilities designated by the United States and acceptable to QuikTrip. These organizations promote the interests of persons with disabilities in areas of the country where QuikTrip does business. The United States will provide QuikTrip with a notice regarding the amount of funds to be distributed to each of these entities. Within thirty (30) days after the receipt of such notice from the United States, QuikTrip will deliver by common carrier Federal Express, delivery prepaid, a check made payable to the order of each such entity in the amount designated by the United States. QuikTrip shall simultaneously send a copy of the check and any accompanying letter to counsel for the United States via common carrier Federal Express, delivery prepaid.
35. The United States will notify QuikTrip regarding ADA violations at QuikTrip Stores identified during its review of claims in circumstances where QuikTrip needs to take additional action to remedy the ADA violations beyond what is otherwise required by the Consent Decree.

#### VII. CIVIL PENALTY

36. The ADA authorizes the Attorney General to seek, and the Court to award, civil penalties of up to \$55,000 for a first violation of Title III of the ADA and up to \$110,000 for each subsequent violation. 42 U.S.C. §§ 12188(b)(2)(C) and (b)(3); 28 C.F.R. §§ 36.504(a)(3) and (b). The United States believes the



imposition of a civil penalty in this case is warranted to vindicate the public interest. QuikTrip shall pay a civil penalty to the United States in the amount of Fifty-Five Thousand Dollars (\$55,000). QuikTrip will deliver the check or money order made payable to the Treasury of the United States to counsel for the United States by common carrier Federal Express, delivery prepaid within thirty (30) days after the Effective Date of this Consent Decree.

#### **VIII. REPORTING, MONITORING, ENFORCEMENT, AND OTHER MISCELLANEOUS PROVISIONS**

37. Beginning six (6) months after the Effective Date of this Consent Decree and every six (6) months thereafter throughout the term of this Consent Decree, QuikTrip shall submit to counsel for the United States a written report detailing the following information for the six month period preceding the report: actions taken by QuikTrip to comply with this Consent Decree, QuikTrip facilities opened or re-opened for business, QuikTrip facilities constructed, and a description of each complaint about the accessibility of a QuikTrip facility or services by one or more individuals with disabilities and actions taken to address each such complaint. The report will also provide a copy of certifications received pursuant to Paragraph 14 through 16 of this Consent Decree and a copy of any other documents or information required by this Consent Decree.
38. The Department may review compliance with this Consent Decree at any time and may file a motion to enforce this Consent Decree if it believes that the Consent Decree, or any requirement thereof, has been violated. The Department may conduct an on-site review of any QuikTrip facility, review any QuikTrip records related to actions required by the Consent Decree, and interview any QuikTrip employees or contractors for purposes of reviewing compliance with this Consent Decree and ADA requirements, including the requirements of the ADA Standards. If the Department identifies any noncompliance with the Consent Decree or the ADA Standards, QuikTrip will be required to correct any noncompliance within sixty (60) days of receipt of notice of noncompliance from the Department. If QuikTrip has not corrected the noncompliance within sixty (60) days after the receipt of notice, the violation will be considered a subsequent violation and require payment of a subsequent violation civil penalty in the amount of One Hundred Ten Thousand Dollars (\$110,000). The Department will provide written notice to QuikTrip of the location of any facility where it will review compliance at least ten (10) business days before doing so. Similarly, the Department will provide written notice to QuikTrip of any records that it wishes to inspect or personnel whom it wishes to interview at least ten (10) business days before doing so.
39. Failure by the United States to enforce this entire Consent Decree or any of its provisions or deadlines shall not be construed as a waiver of the right of the United States to enforce other deadlines and provisions of this Consent Decree.
40. All materials sent to the United States pursuant to this Consent Decree shall be sent to the following address by common carrier Federal Express, delivery prepaid: Disability Rights Section, Attn: William Lynch, Trial Attorney, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, 1425 New York Avenue, N.W., Washington, D.C. 20005. The cover letter shall include a subject line referencing QuikTrip and DJ# 202-45-50.
41. The Effective Date of this Consent Decree ("Effective Date") is the date of entry by the Court after the signatures of all Parties have been obtained.
42. This Consent Decree is limited to resolving claims under Title III of the ADA related to the facts specifically set forth in Paragraph 3 above involving architectural noncompliance with the ADA Standards in facilities designed, constructed, or altered by QuikTrip; the failure to remove barriers to accessibility where readily achievable to do so; the failure to maintain accessible features; and the failure to implement reasonable modifications of policies, practices, and procedures necessary to afford equal access to goods, services, facilities, privileges, advantages, and accommodations to individuals with

disabilities. Nothing in this Consent Decree relates to Title I of the ADA or affects QuikTrip's obligations to comply with any other federal, state, or local statutory, administrative, regulatory, or common law obligation, including those relating to nondiscrimination against or accessibility for individuals with disabilities.

43. A copy of this Consent Decree and any information contained in it, including Exhibits A through J, shall be made available to any person by Defendant or the United States upon request.
44. The United States' Complaint shall be dismissed without prejudice to the right of the United States to petition the Court, at any time during the duration of this Consent Decree, to reopen the case for the purposes of enforcing the Consent Decree. The Parties to this Consent Decree shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Consent Decree prior to bringing such matters to the Court for resolution.
45. Any time limits for performance imposed by this Consent Decree may be extended by the mutual written agreement of the Parties.
46. Each of the Parties to this litigation will bear its own costs and attorney's fees associated with this litigation.
47. This Consent Decree is final and binding on QuikTrip, and its agents, officers, employees, contractors, and successors in interest. In the event QuikTrip seeks to transfer or assign all or part of its interest in any facility covered by this Consent Decree to an unrelated entity, and the unrelated entity intends to carry on the same or a similar use of the facility, QuikTrip shall either make all necessary modifications required by Paragraph 13 prior to the transfer or assignment or, as a condition of sale, obtain the written accession of the unrelated entity to any obligations remaining under Paragraph 13 of this Consent Decree for the remaining term of this Consent Decree. In the event QuikTrip seeks to transfer or assign all or part of its interests in any facility covered by this Consent Decree to an affiliate or other related entity, QuikTrip shall retain all obligations under this Consent Decree with respect to such facility.
48. The individuals signing this Consent Decree represent that they are authorized to do so on behalf of the respective entity for which they have signed.

This Consent Decree shall remain in effect for a term of four (4) years from its Effective Date. The term of this Consent Decree may be extended by mutual written agreement of the Parties.

SO ORDERED this \_\_\_ day of \_\_\_\_\_, 2010.

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UNITED STATES DISTRICT JUDGE

**Signatures indicating agreement to entry of this Consent Decree:**

**For the United States of America:**

Date:

DEBORAH R. GILG  
Assistant Attorney General  
LAURIE KELLY  
Assistant United States Attorney

ERIC H. HOLDER, JR.  
Attorney General of the United States  
of the United States

THOMAS E. PEREZ  
United States Attorney

District of Nebraska

SAMUEL R. BAGENSTOS  
Deputy Assistant Attorney General  
Civil Rights Division

JOHN L. WODATCH, Chief  
PHILIP L. BREEN, Special Legal Counsel  
Disability Rights Section

By: \_\_\_\_\_  
JEANINE M. WORDEN, Deputy Chief  
Virginia Bar No. 29754  
Disability Rights Section (NYA)  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Telephone: (202) 353-9875  
Fax: (202) 514-7821

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
DOV LUTZKER, Special Counsel  
California Bar 185106  
Disability Rights Section (NYA)  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Telephone: (202) 514-5746  
Fax: (202) 514-7821  
E-Mail: Dov.Lutzker@usdoj.gov

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
WILLIAM F. LYNCH, Trial Attorney  
Virginia Bar No. 71226  
Disability Rights Section (NYA)2  
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950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Telephone: (202) 305-2008  
Fax: (202) 514-7821  
William.Lynch@usdoj.gov

Dated: \_\_\_\_\_

**For QuikTrip Corporation**

By: \_\_\_\_\_  
STUART SULLIVAN  
Vice President, General Counsel, and  
Secretary  
QuikTrip Corporation  
4705 South 129th East Avenue  
Tulsa, Oklahoma 74134

By: \_\_\_\_\_  
ROBERT L. DUSTON  
Saul Ewing, LLP  
2600 Virginia Avenue, N.W.  
Suite 1000  
Washington, D.C. 20037

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**EXHIBIT A**

**Required Accessible Elements at QuikTrip Stores**

1. Accessible Routes. Accessible routes shall be provided in compliance with ADA Standards §§ 4.1.2(1), 4.1.3(1), and 4.3, including the following requirements:
  - a. At least one accessible route complying with ADA Standards § 4.3 shall be provided within the boundary of the QuikTrip site from accessible public transportation stops, accessible parking, and public streets and sidewalks, to an accessible building entrance, in compliance with ADA Standards §§ 4.1.2(1), 4.1.3(1), and 4.3.2(1). Such accessible route(s) shall, to the maximum extent feasible, coincide with the route used by the general public, in compliance with ADA Standards § 4.3.2(1).
  - b. At least one accessible route complying with ADA Standards § 4.3 shall be provided to connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site, including the accessible entrance (e.g., fuel pumps to the store entrance), in compliance with ADA Standards §§ 4.1.2(2), 4.1.3(1), and 4.3.2(2).
  - c. Each accessible route provided shall comply with the ADA Standards, including but not limited to the following requirements:
    - (1) Width. Provide accessible routes with a minimum clear width of 36 inches at all points, except as provided in the ADA Standards, where the width may decrease to 32 inches for a distance of no more than 24 inches (e.g., doorways). Specifically, where vending machines, display racks, trash receptacles, firewood, pallets of retail merchandise, newspaper stands, planters, or benches are on site, these items may not constrict an accessible route width to less than that specified above. 28 C.F.R. § 36.211 and ADA Standards §§ 4.1.2(2), 4.1.3(1), 4.2.1, 4.3.3, and 4.13.5.
    - (2) Protruding Objects. All objects that protrude from surfaces or posts into circulation paths shall comply with ADA Standards § 4.4 and a minimum 80 inch vertical clearance shall be provided in walks, halls, corridors, aisles or other circulation spaces.. Protruding objects shall not reduce the clear width of an accessible route or maneuvering space, in compliance with ADA Standards § 4.4.1.

- (3) Slope. An accessible route with a running slope greater than 1:20 (5%) is a ramp and shall comply with ADA Standards §§ 4.3.7 and 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50 (2%) or the slope of an accessible route exceed 1:12 (8.33%).
        - (4) Changes in Levels. Changes in levels along an accessible route shall comply with ADA Standards §§ 4.3.8 and 4.5.2. If an accessible route has changes in level greater than ½ inch, then a curb ramp that complies with ADA Standards § 4.7 or a ramp that complies with ADA Standards § 4.8 shall be provided.
        - (5) The overhangs of legally parked vehicles shall not reduce the width of an accessible route. Standards § 4.6.3.
2. Ramps. Ramps shall be provided in compliance with the ADA Standards §§ 4.1.2(1), 4.1.2(2), 4.1.3(4), 4.3.8, and 4.8, including the following requirements:
  1. Dimensions. In accordance with the ADA Standards, each ramp shall be at least 36 inches wide with a slope not exceeding 8.33% and a cross slope not exceeding 2%; with level landings at least as wide as the ramp and 60 inches long at the top and bottom of the ramp and where there is an intermediate landing without a change in direction; with level landings measuring at least 60 inches by 60 inches when the ramp changes direction; with no level changes in excess of ½ inch vertically and no level changes greater than ¼ inch vertically unless they are beveled with a slope no greater than 50%; and with edge protection that is at least 2 inches high at the drop-off sides.
  2. Handrails. In accordance with the ADA Standards, handrails shall be provided that are between 1¼ inches and 1½ inches in diameter such that the inside handrail is continuous and both handrails have a continuous gripping surface along both sides of the ramp extending at least 12 inches beyond the top and bottom of the ramp parallel with the ground surface; the handrails do not rotate within their fittings; and both handrails are mounted between 34 inches and 38 inches above the ramp surface and 1½ inches from the wall, with ends rounded or returned smoothly to the floor, wall, or post.
  3. Surfaces. In accordance with the ADA Standards, ramps and approaches shall be designed so that water will not accumulate on walking surfaces.
3. Curb Ramps. Curb ramps shall be provided in compliance with the ADA Standards §§ 4.1.2(1), 4.1.2(2), 4.3.7, 4.3.8, 4.5.2, 4.7, Fig. 12, including the following requirements:
  - a. Dimensions. Curb ramps shall be at least 36 inches wide, have a maximum slope of 8.33% and a maximum cross slope of 2%, located so that they cannot be obstructed by parked vehicles, have transitions on and off that are flush and free of abrupt level changes, and have a stable, firm, and slip-resistant surface with an ADA-compliant detectable warning. If the curb ramp is located where pedestrians must walk across it, curb ramps must have either flared sides (with a maximum slope of 10%) or handrails or guardrails to protect against cross traffic.
  - b. Encroachments. Curb ramps shall not encroach, protrude, or project into access aisles and/or vehicular traffic lanes.
4. Accessible Parking. Accessible parking spaces shall be provided in compliance with the ADA Standards §§ 4.1.2(5) and 4.6, including but not limited to the following requirements:
  - a. Van Accessible Parking Spaces. When there is only one accessible parking space, it shall be a van accessible parking space. Additional van accessible parking spaces shall be provided in accordance with ADA Standards § 4.1.2(5)(a).
  - b. Location. Each accessible parking space shall be located on the shortest accessible route of travel

from the parking area to an accessible entrance, in compliance with ADA Standards § 4.6.2.

- c. Width. Each designated accessible parking space shall be at least 96 inches wide.
  - d. Slope. Each designated accessible parking space shall be flat and level with slopes and cross-slopes not exceeding 1:50 (2%) in all directions. Standards § 4.6.3.
  - e. Parking Access Aisles. A designated access aisle, at least 96 inches wide for a van accessible space and 60 inches wide for a standard accessible space, shall be provided adjacent to each designated accessible parking space. Each access aisle shall be flat and level with slopes and cross-slopes not exceeding 1:50 (2%) in all directions and, as a result, a curb ramp shall not be located in an access aisle. Each access aisle shall be part of an accessible route to the facility entrance. ADA Standards §§ 4.1.2(5), 4.6.3, Fig. 9.
  - f. Signage. Each accessible parking space shall be so designated with signage complying with ADA Standards §§ 4.6.4 and 4.30. Such signage shall be located so that it cannot be obscured by a vehicle parked in the space, including a van, in compliance with Standards § 4.6.4.
5. Accessible Fuel Dispensers, Self-Service Payment Mechanisms, and Call Buttons. The following requirements will apply to fuel dispensers, self-service payment mechanisms, and call buttons located on fuel dispensers at QuikTrip Stores.
- a. QuikTrip Stores Designed and Constructed After the Effective Date. At QuikTrip Stores designed and constructed by, on behalf of, or for the use of QuikTrip after the Effective Date of the Consent Decree, at least two fuel dispensers shall be on the shortest accessible route to the entrance to the QuikTrip Store and all fuel dispensers, the controls, self-service payment mechanisms, and call buttons shall comply with ADA Standards §§ 4.2, 4.3, 4.27.2 and 4.27.3 for Space Allowance and Reach Ranges, and Controls and Operating Mechanisms, including the following requirements:
    - i. Height. The highest operable part of the controls for each fuel dispenser, self-service payment mechanism, and call button shall be within one of the reach ranges specified in ADA Standards §§ 4.2.5 and 4.2.6, except that such equipment shall be installed so that a reach no higher than 48 inches shall be required for a side reach.
    - ii. Clear Floor Space. Clear floor space that allows a forward or a parallel approach by a person using a wheelchair shall be provided at each fueling position at each fuel dispenser, self-service payment mechanism, and call button in accordance with ADA Standards §§ 4.2.4 and 4.27.2. The total space allotted to vehicles stopped at each fuel dispenser, self-service payment mechanism, and call button must ensure that such clear floor space is available in front of each fuel dispenser and self-service payment mechanism at each fueling position.
    - iii. Operation. The controls and operating mechanisms on each fuel dispenser, self-service payment mechanism, and call buttons must comply with ADA Standards §§ 4.27.1, 4.27.2, and 4.27.3.
    - iv. International Symbol of Accessibility. QuikTrip shall install a sign or signs with the International Symbol of Accessibility in a location conspicuous to vehicles approaching the fuel dispenser(s) where required to identify accessible routes. Standards § 4.1.2(7).
  - b. QuikTrip Stores Open as of the Effective Date. The following provisions apply to QuikTrip Stores that are open for business as of the Effective Date of the Consent Decree.
    - i. At QuikTrip Stores open for business as of the Effective Date of the Consent Decree where controls and operating mechanisms on fuel dispensers, self-service payment mechanisms, and call buttons are in compliance with the side reach range requirement of ADA Standards § 4.2.6, QuikTrip shall make modifications such that the fuel dispenser operating mechanisms and controls and the accompanying self-service payment mechanisms and call buttons serving at

least two fueling positions comply with the requirements set out in 5.a.ii. and 5.a.iii. above.

- ii. At QuikTrip Stores open for business as of the Effective Date of the Consent Decree where controls and operating mechanisms on fuel dispensers, self-service payment mechanisms, and call buttons do not comply with ADA Standards § 4.2.6, QuikTrip shall make modifications such that the fuel dispenser operating mechanisms and controls, accompanying self-service payment mechanisms, and call buttons serving at least two fueling positions comply with the requirements set out in 5.a.i. through 5.a.iii. above. Necessary modifications may include actions such as the lowering of a fuel dispenser to ensure that the fuel selector switch complies with ADA Standards § 4.2.6 or installing an auxiliary self-service payment mechanism on a fuel dispenser to ensure that it complies with the 48 inch maximum side reach range requirement specified in 5.a.i.
- iii. At the two accessible fuel positions at each Store referenced in 5.b.i. and 5.b.ii., QuikTrip shall install a sign with the International Symbol of Accessibility in a location conspicuous to vehicles approaching the accessible fueling position. Standards § 4.1.2(7).
- c. Alterations. Notwithstanding the foregoing provisions of 5.a. and 5.b., if fuel dispensers are replaced during the term of this Consent Decree, all controls and operating mechanisms on such dispensers, including self-service payment mechanisms, will require a side reach of no more than 48 inches above the finished grade. Any other alterations or modifications to fuel dispensers, self-service payment mechanisms, and call buttons that do not provide for a side reach of 48 inches or less above the finished grade and any fuel dispensers added to a QuikTrip Store, regardless of the date on which the QuikTrip Store was designed and constructed, shall include modifications to achieve compliance with the requirements of 5.a.i. through 5.a.iv. to the maximum extent feasible.
- d. Acquisitions. The requirements of 5.b. and 5.c. shall apply to Future QuikTrip Stores that are not designed and constructed by, on behalf of, or for the use of QuikTrip after the Effective Date of this Consent Decree.
6. Other Amenities. Any other amenities offered to customers at other fuel positions (e.g., paper towel dispensers, squeegees, trash receptacles) shall also be offered at the accessible fuel positions provided pursuant to 5. above. These amenities shall be located on an accessible route with clear floor space in front of the amenity and within one of the reach ranges in the ADA Standards except that the side reach provided shall always be 48 inches or less in height. ADA Standards §§ 4.2.5, 4.2.6.
7. Exterior Air and Water Dispensers. At each location where QuikTrip provides an exterior air dispenser for use by the public, at least one such device shall be accessible in accordance with this paragraph. The highest operable part of the controls for each accessible air dispenser shall be within one of the reach ranges specified in ADA Standards §§ 4.2.5 and 4.2.6. Clear floor space that allows for a forward or parallel approach for a person using a wheelchair shall be provided in front of the accessible air dispenser. ADA Standards § 4.27.2. The ILA shall review and submit to the USILA for approval QuikTrip's proposed design for parking and access at the air dispensers. If QuikTrip chooses to have an exterior water dispensers at any QuikTrip Store, then each such dispenser must meet the same provisions for accessibility that are required for air dispensers.
8. Signage. Provide toilet room signage with upper case, sans serif or simple serif type letters and numerals, meeting the requirements of the Standards for character height, raised characters, and finish and contrast, accompanied by Grade 2 Braille; mounted on the wall adjacent to the latch side of the door or on the nearest adjacent wall at a height of 60 inches above the finished floor to the centerline of the sign; and located so that a person may approach within 3 inches of the signage without encountering protruding objects or standing within the swing of a door. ADA Standards §§ 4.1.2(7), 4.1.3(16), 4.30.1, 4.30.4, 4.30.5, 4.30.6.
9. Doors. Doors shall be provided in compliance with ADA Standards §§ 4.1.3(7), 4.13, Fig. 25, including

but not limited to the following requirements:

- a. Generally. Doors shall have a clear opening at least 32 inches wide when measured from the face of the door to the opposite stop when the door is opened 90 degrees and shall have hardware usable with one hand and without tight grasping, pinching, or twisting of the wrist. Lever-operated, push-type, and U-shaped handles are acceptable designs.
  - b. Slopes. Unless an automatic door operator is provided, there must be clear and level maneuvering clearances at the pull side and the push side of the door as indicated in Fig. 25.
  - c. Thresholds. The door's threshold must be ½ inch or less in height and, if it is greater than ¼ inch in height, beveled with a slope of no greater than 50%.
  - d. Door Closers. If a door closer is provided, it must be set so that the sweep period of the door will, from an open position of 70 degrees, take at least 3 seconds to move to a point 3 inches from the latch, measured to the leading edge of the door.
  - e. Operating Force. Interior doors must not require more than 5 pounds of force to open or close.
10. Accessible Means of Egress. Accessible means of egress for QuikTrip facilities shall be provided in the same number as required for exits by local building/life safety regulations. ADA Standards §§ 4.1.3(8), (9).
  11. Toilet Rooms. Toilet rooms shall be provided in compliance with ADA Standards §§ 4.1.3(11), 4.16-4.19, 4.22, 4.24, 4.26, Figs. 29-32, 39, including the following requirements:
    - a. Toilet Rooms with Stalls. Toilet rooms with stalls shall provide accessible elements, including signage, door, door hardware, clear floor space, water closet, stall size and arrangement, stall door, urinal (if provided), grab bars, lavatory, unobstructed turning space, mirror, controls, and dispensers, that comply with the ADA Standards. ADA Standards §§ 4.1.2(6), 4.1.3(11), 4.2.3, 4.13, 4.16, 4.17, 4.18, 4.19, 4.22, 4.26, 4.27, 4.30, and Fig. 30.
    - b. Single User Toilet Rooms. Single user toilet rooms shall provide accessible elements, including signage, door, door hardware, clear floor space, water closet, urinal (if provided), grab bars, lavatory, unobstructed turning space, mirror, controls, and dispensers, that comply with the ADA Standards. ADA Standards §§ 4.1.2(6), 4.1.3(11), 4.2.3, 4.22, 4.13, 4.16, 4.18, 4.19, 4.26, 4.27, 4.30, and Figs. 28, 29.
  12. Mercantile and Food Elements. Mercantile and food elements shall be provided in compliance with ADA Standards §§ 4.1.3, 4.1.5, and 4.1.6, including the following requirements:
    - a. Shelving and Display Units for Merchandise. Fixed and built-in shelves or display units allowing self-service of merchandise or packaged food, as well as any movable displays, shall comply with ADA Standards § 4.1.3(12)(b); and shall have clear floor space of 30 inches by 48 inches, allowing either a forward or parallel approach, ADA Standards § 4.2.4.
    - b. Food and Drink Counters. Food and drink counters shall have a portion of the main counter, with a minimum clear width of 36 inches, located on an accessible route, and the counter shall be between 28 and 34 inches in height. ADA Standards §§ 5.5, 4.2.5, 4.2.6, Fig. 53.
  13. Sales and Service Counters. At least one sales and service counter of each type at each QuikTrip Store shall have a portion at least 36 inches wide and no more than 36 inches above the finished floor, located on an accessible route. ADA Standards §§ 4.1.1(2), 7.2(1), 4.1.3(1), 4.3.
  14. Self-service Shelves and Dispensing Devices. Self-service shelves and dispensing devices for tableware (e.g., QT refillable cups, QT Mix\*It\*Up cups, hot dog bun and nacho containers, etc.), dishware, condiments (e.g., food toppings, seasonings, etc.), food (e.g., taquitos, buffalo chicken rollers, etc.), and



beverages (*e.g.*, frozen cappuccino, Freezoni, HYDR8 Premium Sports Drink, etc.) must be between 15 and 48 inches above the finished floor for a front approach or between 9 and 54 inches above the finished floor for a side approach. ADA Standards §§ 5.6, 4.2.5, 4.2.6, Fig. 54. Side reaches shall be no higher than 48 inches above the finished floor in Future QuikTrip Stores that open for business twelve months or later after the Effective Date of this Consent Decree.

15. Vending Machines, Equipment, and Other Controls and Operating Mechanisms. Such equipment and devices shall be located on an accessible route and there shall be clear floor space of 30 inches by 48 inches in front of such equipment and devices for a forward or side approach. Any such machines or equipment that are installed or replaced after the Effective Date of the Consent Decree shall have controls and operating mechanisms that comply with the ADA Standards if such equipment is available. ADA Standards §§ 4.1.3(13), 4.2, 4.27, and 5.8.
16. Fixed or Built in Seating and Tables. If a QuikTrip Store provides fixed or built-in seating and tables, sufficient accessible tables shall be provided so that 5% of them (but no fewer than one) are available for use by people with mobility disabilities. Each accessible table must be on an accessible route, must have knee space at the table at least 27 inches high, 30 inches wide, and 19 inches deep, and must have a table top between 28 inches and 34 inches above the finished floor. Tables shall be distributed throughout the facility. ADA Standards §§ 4.1.3(18), 4.32.3, 4.32.4, 5.1.
17. Emergency Warning Systems. If an emergency warning system is provided, visual alarm devices shall be provided in toilet rooms and any other area for common use at QuikTrip facilities, including convenience stores, travel centers, and hallways. Such devices shall be integrated into the facility alarm system and shall meet the requirements of the ADA Standards. Alarm pull stations shall comply with the requirements for clear floor space, reach ranges, and controls and operating mechanisms. ADA Standards §§ 4.1.3(14), 4.27, 4.28.3.
18. Ground and Floor Surfaces. Ground and floor surfaces shall comply with ADA Standards §§ 4.1.2(4), 4.1.3(3), and 4.5, including the following requirements:
  - a. Interior and exterior accessible routes, floors, walks, ramps, stairs, and curb ramps shall be stable, firm, and slip-resistant. ADA Standards § 4.5.1.
  - b. Changes in level between 1/4 inch and 1/2 inch shall be beveled with a slope no greater than 50%. Changes in level greater than 1/2 inch shall be accomplished by means of a ramp that complies with ADA Standards §§ 4.7 or 4.8. ADA Standards § 4.5.2.
19. Protruding Objects. Circulation paths shall be provided such that no objects (*e.g.*, QT Signs, hall lanterns) have their leading edges protruding more than 4 inches into walks, halls, corridors, passageways, or aisles at a height between 27 inches and 80 inches above the finished floor or ground. Free-standing objects mounted on posts or pylons may overhang no more than 12 inches at a height between 27 and 80 inches above the finished floor or ground. Providing a cane-detectable barrier is an acceptable solution. A protruding object (and cane-detectable barrier) shall not reduce the clear width of an accessible route or maneuvering space. ADA Standards §§ 4.1.2(3), 4.1.3(2), and 4.4.
20. Telephones. Accessible telephones shall be provided with a clear floor space of at least 30 inches by 48 inches that allows either a forward or parallel approach by a person using a wheelchair such that bases, enclosures, and fixed seats do not impede approaches to the telephone; with the highest operable part of the telephone mounted no more than 48 inches above the floor for a front approach or no more than 54 inches above the floor for a side approach; that is hearing aid compatible and has a volume control mechanism; with telephone books, if provided, located between 15 and 48 inches above the finished floor for a front approach or between 9 and 54 inches above the finished floor for a side approach; with a cord of at least 29 inches long from the telephone to the handset; and with signage that complies with the Standards. Standards §§ 4.1.3(17), 4.31, 4.30.7(2).

21. All elements, whether or not identified in this Exhibit, shall comply with the Standards in their design and construction, including, among other things, showers, dressing and fitting rooms, and drinking fountains.

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**EXHIBIT B**

**Certification of ADA Compliance**

I, [insert name], in my capacity as the Independent Licensed Architect retained by QuikTrip Corporation and approved by the United States pursuant to a certain Consent Decree executed by the parties and entered by the Court in *United States v. QuikTrip Corporation*,

Hereby CERTIFY to the best of my knowledge, information, and belief that the QuikTrip Store identified below is in compliance with the physical accessibility requirements of the Consent Decree and the ADA Standards as of the date shown below.

Description of Facility at Issue:

Features and Amenities provided at this Facility (*e.g.*, number of fuel dispensers and parking spaces):

Address of Facility:

Pursuant to that certain Consent Decree, I have obtained from the Independent Licensed Architect retained by the United States prior approval of any innovative site-specific solutions or equivalent facilitation relied upon in making this Certification.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature of Independent Licensed Architect

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**EXHIBIT C**

**Certification of ADA Compliance**

I, [insert name], in my capacity as a Licensed Architect or Construction/Project Manager acting on behalf of QuikTrip Corporation pursuant to a certain Consent Decree executed by the parties and entered by the

Court in *United States v. QuikTrip Corporation*,

Hereby CERTIFY as follows:

I have been trained regarding the Americans with Disabilities Act (ADA) and procedures for certification of ADA compliance by the Independent Licensed Architect retained by QuikTrip Corporation ("ILA") or the Independent Licensed Architect retained by the United States ("USILA"), and

To the best of my knowledge, information, and belief, the QuikTrip Store identified below is in compliance with the physical accessibility requirements of the Consent Decree and the ADA Standards as of the date shown below.

Description of Facility at Issue:

Features and Amenities provided at this Facility (number of fuel dispensers and parking spaces):

Address of Facility:

Pursuant to that certain Consent Decree, I have obtained from the Independent Licensed Architect retained by the United States prior approval of any innovative site-specific solutions or equivalent facilitation relied upon in making this Certification.

\_\_\_\_\_  
Signature of Licensed Architect or Construction/Project  
Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (i.e., Licensed Architect or Construction/Project  
Manager)

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## EXHIBIT D

### QUIKTRIP POLICY ON ACCESS, SERVICE, AND ASSISTANCE FOR CUSTOMERS WITH DISABILITIES

The Americans with Disabilities Act ("ADA") is a civil rights law that applies to QuikTrip facilities and services. It guarantees equal opportunity and access for individuals with disabilities to QuikTrip facilities, including gas stations, convenience stores, truck stops, and travel centers (collectively "QuikTrip Stores"). The ADA requires QuikTrip Stores to be accessible to individuals with disabilities. It also requires QuikTrip to provide customers with disabilities an equal opportunity to benefit from our goods and services.

It is QuikTrip's policy to make all changes necessary to ensure that QuikTrip Stores are accessible to and usable by customers with disabilities. It is QuikTrip's policy to provide its customers with disabilities with the

same services and assistance that it provides to all customers. QuikTrip will also modify its policies and procedures to provide additional assistance on request to customers with disabilities who may need that assistance to access our goods, services, and facilities. Common types of assistance that QuikTrip provides to customers with disabilities include the following: providing fueling assistance; cleaning windshields; opening doors; locating or retrieving merchandise; carrying merchandise to a customer's vehicle, reading product labels or prices; helping customers with vision disabilities find their way around our facilities, and providing assistance in operating beverage dispensers, food service equipment, and credit/debit card payment mechanisms.

Further information about the ADA can be obtained by calling the Department of Justice's toll-free ADA Information Line at 1-800-514-0301 (voice), 1-800-514-0383(TTY).

QuikTrip Stores and any other QuikTrip facilities open to the public do not discriminate against any individual on the basis of disability in the full and equal enjoyment of our facilities, services, and products. If there are any questions or problems regarding service or the accessibility of any QuikTrip facility, please contact the station manager or call QuikTrip at [insert toll free ADA Comment Line or contact QuikTrip's ADA Coordinator at [telephone number and email address of ADA Coordinator]].

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## EXHIBIT E

### QUIKTRIP POLICY REGARDING SERVICE ANIMALS FOR PEOPLE WITH DISABILITIES

QuikTrip is committed to making reasonable modifications in policies, practices, and procedures to permit the use of service animals by persons with disabilities. Service animals play an important role in ensuring the independence of people with disabilities, and it is therefore our policy to welcome into our stores any animal that is individually trained to assist a person with a disability.

#### What is a Service Animal?

Service animals are individually trained to work or perform tasks for individuals with disabilities. Service animals are not always dogs; other animals may assist people with disabilities. Service animals come in all breeds and sizes, may be trained either by an organization or by an individual with a disability, and need not be certified or licensed. Service animals do not always have a harness, a sign, or a symbol indicating that they are service animals. A service animal is **not** a pet. Service animals assist people with disabilities in many different ways, such as:

- Guiding people who are blind or have low vision and retrieving dropped objects for them;
- Alerting people who are deaf or hard of hearing to sounds and the presence of others;
- Carrying and picking up items, opening doors, or flipping switches for people with disabilities who have limited use of hands or arms, limited use of their legs, or limited ability to bend or stoop;
- Pulling wheelchairs;
- Alerting people with disabilities to the onset of medical conditions such as seizures, protecting them and cushioning them if they fall, reviving them, and performing other tasks that reduce the risk of disability-related injury;
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities, or psychiatric

disabilities, such as reminding a person with depression to take medication or waking him up, alerting a person with anxiety to the onset of panic attacks, orienting people with schizophrenia to reality, and helping people with intellectual or cognitive disabilities to locate misplaced items, find places, or follow daily routines; and

- Providing physical support and assisting people with physical disabilities with stability and balance.

**Requirements with Regard to Service Animals:**

Most of the time, people with disabilities who use service animals may be easily identified without any need for questioning. If we can tell by looking, it is our policy not to make an individual feel unwelcome by asking questions. If we are unsure whether an animal meets the definition of a service animal, it is our policy to ask the individual only two questions at the point when the individual first seeks entry to the QuikTrip facility:

- Is your animal a service animal required because of a disability?
- What work or tasks has your service animal been trained to perform?

If the individual responds that the animal is required because of a disability and has been trained to perform some work or task, we will welcome the person and service animal into the store. Once an individual with a service animal has answered this question, we will not ask any further questions about his or her service animal. We will **not** ask an individual questions about his or her disability. We will **not** ask an individual to show a license, certification, or special ID card as proof of their animal's training. We **must** permit service animals to accompany individuals with disabilities to all areas of our stores normally used by customers or other members of the public. We treat individuals with service animals with the same courtesy and respect that QuikTrip affords to all of our customers and to other members of the public who visit our stores. Service animals are **not** pets. Employees must not interfere with the important work performed by a service animal by talking to, petting, or otherwise initiating contact with a service animal.

**Manager Responsibilities:**

In the event that a particular service animal's vicious behavior poses a direct threat to the health or safety of others, QuikTrip has the right to exclude the animal from our store at that time. Barking or growling alone is not a direct threat. In addition, a direct threat does not exist if the service animal's owner takes prompt, effective action to control the animal. Moreover, we will not exclude a particular service animal based on past experience with other animals or based on fear that is not related to an individual service animal's actual behavior. Each situation will be considered individually. In the event QuikTrip excludes a service animal because of a direct threat, we will not refuse service to the individual with a disability when he or she is not accompanied by that particular service animal. Only the Manager on Duty can make the decision to exclude a service animal because it poses a direct threat.

Any inquiries about this policy, or complaints about the implementation of the policy at an individual store should be referred to the ADA Comment Line [insert toll free ADA Comment Line number] or to QuikTrip's ADA Coordinator at [number/email of ADA Coordinator].

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**EXHIBIT F**

**ADA Maintenance Checklist**

QuikTrip Store # \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Form filled out by: \_\_\_\_\_ Date: \_\_\_ / \_\_\_ / \_\_\_

### 1. ACCESSIBLE ROUTE

Accessible routes must be kept free of obstructions such as display racks, trash receptacles, or merchandise. The pavement must be smooth and level, and free of severe cracks, potholes, other deterioration, debris, snow, ice, mud, and gravel to provide a path that is easily traveled.

- a. Are the accessible routes kept free of obstructions such as display racks, trash receptacles, or merchandise?  
 Yes  No
- b. Is the pavement smooth and level, and free of severe cracks, potholes, other deterioration, debris, snow, ice, mud, and gravel to provide a path that is easily traveled?  Yes  No

### 2. ACCESSIBLE PARKING AREA

Access aisles must be kept free of obstructions, including snow and ice, to allow customers with disabilities room to get in and out of their vehicles.

The pavement for accessible parking spaces and access aisles must be smooth and level.

- a. Is the accessible parking space clear of unauthorized cars and other obstructions?  Yes  No
- b. Are all accessible parking signs in place, in good condition, and visible over vehicles parked in the spaces, including vans?  Yes  No
- c. Are the accessible parking space(s) and the surrounding area relatively smooth?  Yes  No
- d. Are the accessible parking spaces and surrounding area free of severe cracks, potholes, or other significant deterioration?  Yes  No

### 3. CURB RAMPS

Curb ramps or ramps are used to allow customers with disabilities to enter the store if there is a curb or step in the accessible path. The area around the curb ramp must be kept clear, and the curb ramp must not be obstructed by parked vehicles or other objects, including snow, ice, or debris.

- a. If present, is the curb ramp unobstructed, and is the area around the curb ramp clear?  Yes  No
- b. If present, is the curb ramp relatively smooth and free of severe cracks, uneven settlement at the top and bottom, or any other significant deterioration?  Yes  No

### 4. CUSTOMER ENTRANCE

The customer entrance must be easy for customers with disabilities to approach and enter. This includes providing ramps where there is a curb and rugs that lie flat to prevent tripping and other problems.

There also must be sufficient maneuvering room in front of the door on either side.

- a. Is there an unobstructed clear flat area at the exterior side of the accessible door?  Yes  No
- b. Is there an unobstructed clear floor area at the interior side of the accessible door?  Yes  No
- c. Are the door handles at the accessible door firmly attached and in good working order?  Yes  No
- d. Is the door easy to open?  Yes  No
- e. Does the door closer take at least 3 seconds to close the door?  Yes  No

f. Is the ADA service decal installed on the window?  Yes  No

#### 5. STORE INTERIOR

Customers with disabilities must be able to access the areas where goods are available.

Items on self-service shelves and dispensing devices for prepared food and beverages, and accompanying tableware, dishware, and condiments, must be within reach of a customer using a wheelchair, with sufficient clear floor space for approach and maneuvering room.

Other self-service shelves and displays, such as those for packaged foods, must be on an accessible route with sufficient clear floor space for approach and maneuvering room.

If items on shelves cannot be reached by customers with disabilities, employees must provide assistance in retrieving such items.

Interior aisles must be at least 36" (3 feet) wide and must be free of obstructions such as display racks, trash receptacles, or stacked merchandise.

The floor must be smooth and level.

- a. Is there sufficient clear floor space in front of all items on self-service shelves and dispensing devices?  Yes  No
- b. Have employees been trained to provide assistance to people with disabilities to reach, locate, view, and carry items; use dispensers; and read product labels and prices?  Yes  No
- c. Are all merchandise aisles kept clear of temporary displays and stacked merchandise that narrow circulation paths to less than 36" wide or less than 32" wide for lengths of more than 24"?  Yes  No
- d. Is the floor relatively smooth and level?  Yes  No

#### 6. CHECK-OUT COUNTERS & TRANSACTION DRAWERS

Interior check-out counters must be accessible to customers with disabilities. At least part of the check-out counter or transaction drawer must provide a space at least 36" (3 feet) wide that is no higher than 36" (3 feet) from the floor. This area must be kept free and clear of obstructions such as displays, cash registers, and merchandise.

There must be sufficient clear floor space for approach and maneuvering room by a wheelchair.

- a. Is a portion of the check-out counter accessible to customers with disabilities?  Yes  No
- b. Is there sufficient clear floor space, which is free of obstructions, in front of the check-out counter?  Yes  No

#### 7. CUSTOMER RESTROOMS

Public restrooms must be accessible to customers with disabilities.

- a. Is there visible signage with braille and raised letters at each customer restroom?  Yes  No
- b. Is the wheelchair maneuvering clear floor area on both sides of the restroom doors kept free from obstructions?  Yes  No
- c. Is the door easy to open?  Yes  No
- d. Does the door closer take at least 3 seconds to close the door?  Yes  No

- e. Are the accessible features in the toilet room in good working order (e.g., toilet, grab bars, toilet paper dispenser)? \_\_\_ Yes \_\_\_ No
- f. Are the drain line and hot water supply lines insulated so they will not burn a customer's leg? \_\_\_ Yes \_\_\_ No
- g. Is the clear floor area at fixtures kept free of obstructions? \_\_\_ Yes \_\_\_ No
- h. Is the restroom free of extra furniture, merchandise, and other things that reduce the space used for maneuvering a wheelchair? \_\_\_ Yes \_\_\_ No

8. FUEL DISPENSERS & PUMP ISLAND EQUIPMENT

Fuel dispensers have call buttons for requests for assistance.

- a. Are fuel dispenser call buttons and self-service card readers in good working order? \_\_\_ Yes \_\_\_ No

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**EXHIBIT G**

Language for Sign/Decal QuikTrip is committed to full compliance with the Americans with Disabilities Act (ADA). We are making changes to ensure that our facilities are fully accessible. We also provide, upon request, assistance that individuals with disabilities may need to ensure an equal opportunity to enjoy our products, services, and facilities. QuikTrip employees will provide customers with disability-related assistance courteously and free of charge. If you have any ADA-related comments or concerns about QuikTrip, please contact our ADA Comment Line at [insert toll-free number]. information about the ADA is available from the Department of Justice's ADA Information Line at 1-800-514-0301 (voice) and 1-800-514-0383 (TTY) and at [www.ada.gov](http://www.ada.gov).



## EXHIBIT H

### POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN EFFECTIVE WEBSITE COMMUNICATIONS

**General Policy.** QuikTrip will ensure that persons with disabilities have an equal opportunity to benefit from the goods, services, privileges, advantages, and accommodations offered by QuikTrip through the use of its website. QuikTrip is committed to ensuring effective communication with the public, including persons with disabilities.

**Website Accessibility.** QuikTrip provides online content in the following manner to ensure it is accessible to people with disabilities on the quiktrip.com domain and any other websites under its control and to which it posts content for the public:

1. For every image posted, including photographs, charts, color-coded information, or other graphics, QuikTrip will add a text equivalent to the image that can be read by screen readers. This includes images posted by QuikTrip on other websites to which the QuikTrip domain links. The text equivalent will allow persons with disabilities, such as individuals who are blind, have low vision, or have a disability that affects their ability to read a computer display, and that use screen readers to understand the basic content of the image or graphical element.
2. All documents will be provided in a text-based format to be compatible with assistive technology used by individuals with disabilities. Documents posted in image-based formats are often not accessible to people who use screen readers or people with low vision who use text enlargement programs or different color and font settings.
3. QuikTrip's website allows web browsers and assistive technologies to manipulate colors and font settings. This allows for text enlargement and color variations in the browser of a user with low vision, or for those accessing the page on a large display.
4. For any videos or other multimedia, QuikTrip will incorporate features to make them accessible. This includes the provision of audio descriptions of images (including changes in setting, gestures, and other details) to make videos accessible to people who are blind or have low vision. This also includes the provision of text captions synchronized with the video images to make videos and audio tracks accessible to people who are deaf or hard of hearing. This further includes videos or other multimedia posted by or under the control of QuikTrip on other websites, including those to which the quiktrip.com domain or any of its subsidiary pages links.
5. Where appropriate, QuikTrip will also include the following other considerations in developing webpages:
  - a. The inclusion of a "skip navigation" link at the top of webpages that allows people who use screen readers to ignore navigation links and skip directly to webpage content;
  - b. Minimizing the use of blinking, flashing, or other distracting features;
  - c. If included, allowing moving, blinking, or auto-updating objects of pages to be paused or stopped;
  - d. Online forms will include descriptive tags that provide persons with disabilities the information they need to complete and submit the forms;
  - e. If sounds automatically play, visual notification and transcripts will also be provided;
  - f. For pages that are auto-refreshing or that require a timed-response, providing a second, static copy of the page;

- g. Titles, context, and other heading structures will be provided to help users navigate complex pages or elements (such as webpages that use frames).

**Website Accessibility Assessment and Action Plan.** QuikTrip analyzes its website content semiannually to ensure its accessibility. In addition to the considerations identified above, QuikTrip analyzes its website and content according to existing guidelines for accessible website design. QuikTrip provides training to in-house staff and contractors responsible for webpage and content development on website accessibility. QuikTrip also periodically enlists disability groups to test its pages for ease of use and incorporates that feedback into its Website Accessibility Action Plan. QuikTrip also solicits input from visitors on how accessibility can be improved.

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## **EXHIBIT I**

### **NOTICE OF SETTLEMENT**

#### **OF FEDERAL DISABILITY DISCRIMINATION LAWSUIT**

#### **UNITED STATES V. QUIKTRIP CORPORATION**

The U.S. District Court for the District of \_\_\_\_\_ has entered a Consent Decree resolving a lawsuit against QuikTrip Corporation, the owner and operator of gas stations, convenience stores, truck stops, and travel centers located throughout the southern and midwestern United States. The lawsuit, filed by the Civil Rights Division of the U.S. Department of Justice, alleged that QuikTrip's facilities are not accessible to individuals with disabilities, as required by the Americans with Disabilities Act (ADA). A copy of the Consent Decree is available at [www.ada.gov](http://www.ada.gov).

The Consent Decree requires QuikTrip facilities to be made accessible. It also requires QuikTrip to provide fueling assistance and other types of assistance that customers with disabilities may need to enjoy equal access to QuikTrip's facilities and services. QuikTrip must also pay a penalty for violating the ADA.

#### **DAMAGES FOR PERSONS HARMED BY DISABILITY DISCRIMINATION**

The Consent Decree also establishes a fund for the compensation of persons with disabilities who were harmed by QuikTrip's lack of accessible facilities or services. If you are a person with a disability and believe you were harmed because of the lack of accessible facilities or services at a QuikTrip location, you may be entitled to receive payment from the fund.

#### **INFORMATION ON SUBMITTING A CLAIM**

To be eligible for consideration for possible payment, you must submit a timely claim. You may obtain information on how to submit a claim in several ways: (1) by sending an email with your name, address, and telephone number requesting claim information to [insert email address to be designated by United States], (2) by visiting the ADA Home Page at [www.ada.gov](http://www.ada.gov), or (3) by calling the Disability Rights Section at [insert toll free voice and TTY telephone numbers to be designated by United States]. Act now! All claims must be received by [insert date which is 180 days after entry of the Consent Decree]. Claims received after that date are not eligible for possible payment.

All claims will be evaluated by the Civil Rights Division, which will make the final decisions about who receives payment from the fund and the amount of damages that will be received.

**EXHIBIT J**

**WAIVER AND RELEASE OF CLAIMS**

I, \_\_\_\_\_, hereby agree that in consideration of the payment of \$ \_\_\_\_\_ made to me pursuant the Consent Decree between the United States of America and QuikTrip Corporation, I hereby release QuikTrip Corporation, and all of its agents and employees, as well as any affiliated entities, successors, and assigns, from any and all legal claims for monetary or equitable relief that I now have arising in whole or in part under the Americans with Disabilities Act. I have been advised that, before signing this release, I have the right to consult a private attorney regarding its contents. I have read this release and understand its contents, and choose to sign it of my own free will and not under duress.

**AGREED:**

Signature Date

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1. A fuel dispenser is a machine at a fueling station that is used to pump gasoline, diesel, E85, or other types of fuel into vehicles. At QuikTrip Stores, fuel dispensers have two fueling positions, except at QuikTrip Travel Centers with diesel fuel dispensers that may have only one fueling position. A fuel dispenser can be a multi-product dispenser, commonly known as an MPD, or a single product dispenser. The term fuel dispenser used here refers to single-product dispensers and MPDs. For purposes of this Consent Decree, where the terms "fuel dispensers" or "fueling positions" are used, and the QuikTrip Store has more than one type of fuel dispenser, the requirements apply to fuel dispensers of each type and fueling positions at dispensers of each type. At a QuikTrip Store with a diesel-only fuel dispenser, only one diesel fueling position must be accessible.

2. Senior Investigator Dana L. Jackson also assisted with this matter.

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[Return to Settlements](#)

ADA Home Page

July 16, 2010

1 STEVEN H. ROSENBAUM  
Chief  
2 TIMOTHY J. MORAN  
Deputy Chief  
3 JULIE J. ALLEN  
R. TAMAR HAGLER  
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14 Attorneys for Plaintiff United States of America

15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 UNITED STATES OF AMERICA,  
18 Plaintiff,

19 v.

20 DONALD STERLING, individually, in  
his capacity as trustee for the Sterling  
21 Family Trust, and doing business as  
Beverly Hills Properties; ROCHELLE  
22 STERLING, individually and in her  
23 capacity as trustee for the Sterling  
24 Family Trust; STERLING FAMILY  
TRUST; and THE KOREAN LAND  
25 COMPANY, L.L.C.,  
26 Defendants.

**REVISED [~~PROPOSED~~]  
DISBURSEMENT ORDER**

Case Nos.: 06-4885 DSF (Ex);  
06-7442 DSF (Ex); and  
07-7234 DSF (Ex)

Judge: Hon. Dale S. Fischer  
United States District  
Judge  
(Courtroom 840)

27  
28

1 KEVIN TYRRELL; KAREN HARRIS-  
2 TYRRELL; A.H.T., minor, and E.H.T.,  
3 minor, each by their guardian ad litem  
4 KAREN HARRIS-TYRRELL,  
5 Plaintiffs,

6 v.

7 DONALD STERLING, individually, in  
8 his capacity as trustee for the Sterling  
9 Family Trust, and doing business as  
10 Beverly Hills Properties; ROCHELLE  
11 STERLING, individually and in her  
12 capacity as trustee for the Sterling  
13 Family Trust; STERLING FAMILY  
14 TRUST; and THE KOREAN LAND  
15 COMPANY, L.L.C.,  
16 Defendants.

17 DARRELL RHODES; MARY  
18 RHODES; J.R., minor, M.R., minor,  
19 and D.R., minor, each by their guardian  
20 ad litem DARRELL RHODES,  
21 Plaintiffs,

22 v.

23 DONALD STERLING, individually, in  
24 his capacity as trustee for the Sterling  
25 Family Trust, and doing business as  
26 Beverly Hills Properties; ROCHELLE  
27 STERLING, individually and in her  
28 capacity as trustee for the Sterling  
Family Trust; STERLING FAMILY  
TRUST; and THE KOREAN LAND  
COMPANY, L.L.C., and DOES 1  
THROUGH 10,  
Defendants.

- 1 1. The United States presents this Revised Disbursement Order in response to the  
2 Minute Order entered by the Court on February 18, 2010. In that Order the Court  
3 stated that “[i]f counsel for the government deems it appropriate, and if no named  
4 plaintiff objects, the government may seek disbursement of funds that will not be  
5 impacted by potential disbursements to the named plaintiffs.” Counsel for the  
6 Kevin Tyrrell and Karen Harris-Tyrrell, individually and as guardian ad litem for  
7 her minor children, and counsel for Mary Rhodes and Darrell Rhodes,  
8 individually and as guardian ad litem for his minor children, have indicated that  
9 their clients will not object to this Revised Disbursement Order. Because  
10 alternative guardians have not yet been appointed pursuant to the Court’s minute  
11 order (doc. 142), counsel for the named plaintiffs have not consulted with the  
12 guardians ad litem who may be appointed on behalf of the named minor plaintiffs  
13 regarding the Revised Disbursement Order.  
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18 2. The Court entered a Consent Order in this case on November 12, 2009, resolving  
19 the lawsuits of the United States and other plaintiffs alleging that Defendants  
20 violated the Fair Housing Act, 42 U.S.C. §§ 3601, et seq.  
21  
22 3. Paragraph 33 of the Consent Order requires the United States to submit a  
23 Disbursement Order that “shall set forth the amounts to be paid to plaintiffs in  
24 these Actions and to other allegedly Aggrieved Persons identified in the  
25 Disbursement Order.”  
26  
27 4. Paragraph 33 of the Consent Order provides that “Defendants shall not have any  
28

1 right to object to the terms of the Disbursement Order?"

2 5. In accordance with the Court's Minute Order of February 18, 2010, this Revised  
3 Disbursement Order does not include amounts to be disbursed to (a) Kevin  
4 Tyrrell and Karen Harris-Tyrrell, a married couple, who filed a complaint on  
5 behalf of themselves and their two minor children ("Tyrrell Plaintiffs") (Case No.  
6 06-7442 DSF (Ex)), and (b) Darrell Rhodes and his mother, Mary Rhodes, who  
7 filed a complaint on behalf of themselves and Darrell's three minor children  
8 ("Rhodes Plaintiffs") (Case No. 07-7234 DSF (Ex)). The United States believes  
9 that the amounts proposed to be paid to the Tyrrell Plaintiffs, the Rhodes  
10 Plaintiffs, and their respective counsel that appeared in the Proposed  
11 Disbursement Order filed by the United States on January 26, 2010, are  
12 appropriate.

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17 6. Aggrieved Persons: Below are listed the aggrieved persons identified by the  
18 United States as having suffered damages as a result of Defendants' alleged  
19 discriminatory conduct ("Aggrieved Persons"). Each of the Aggrieved Persons was  
20 identified by the United States in the course of discovery in *United States v.*  
21 *Sterling, et al.*, and each was included in the initial or supplemental disclosures of  
22 the United States. All but two of the Aggrieved Persons were deposed in the  
23 course of discovery and testified regarding their damages as a result of  
24 Defendants' alleged discriminatory conduct. Angel and Diana Montiel were not  
25 deposed, but their parents, Antonio Montiel and Zoyla Cajina, were deposed and  
26  
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1 testified regarding their damages as a result of Defendants' alleged discriminatory  
 2 conduct. Each of the Aggrieved Persons is over the age of 18. In determining the  
 3 amounts to be awarded to each Aggrieved Person, the United States took into  
 4 account the nature and severity of Defendants' conduct toward them and the effect  
 5 of Defendants' actions on the Aggrieved Persons. Below the Aggrieved Persons  
 6 are grouped by household, in descending order of total award to each household  
 7 or individual.  
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 9

10 Montiel/Cajina Family

11 Zoyla Cajina \$30,000  
 12 Antonio Montiel \$30,000  
 13 Diana Montiel \$30,000  
 14 Angel Montiel \$30,000

15 Gomez Family

16 Elmer Gomez \$75,000  
 17 Sonia Gomez \$75,000

18 McDaniel Family

19 Kelly McDaniel \$75,000  
 20 Piper McDaniel \$75,000

21 Aguero/Villagran Family

22 Carlos Aguero \$60,000  
 23 Alejandra Villagran \$60,000

24 Charrada Family

25 Ons Charrada \$60,000  
 26 Pilar Charrada \$60,000

27 Pacheco Family

28 Abel Pacheco \$60,000  
 Claudia Pacheco \$60,000

1	<u>Bernal/Moreno Family</u>	
2	Charline Bernal	\$20,000
3	Wesley Bernal	\$20,000
4	Ricardo Bernal	\$20,000
5	Martha Moreno	\$20,000
6	<u>Martinez/Santos Family</u>	
7	Constantino Martinez	\$40,000
8	Juana Santos	\$40,000
9	Rocio Amezcua	\$60,000
10	Maira Oliva	\$60,000
11	Lucy Quevedo	\$60,000
12	<u>Gomez/Santizo Family</u>	
13	Josue Luis Gomez Samiyoa	\$22,000
14	Iczel Santizo	\$22,000
15	<u>Pivara/Godoy Family</u>	
16	Dora Godoy	\$22,000
17	Cesar Pivara	\$22,000
18	Jose Luis Martinez	\$40,000
19	Corrine McLaurin	\$40,000
20	Ronald Sexton	\$22,000

7. In addition to the amounts proposed for the Tyrrell Plaintiffs and the Rhodes Plaintiffs, the amount of \$40,000 is not accounted for above. In accordance with the terms of the Consent Order, that unaccounted amount shall be used to pay the fees and expenses of the Fund Administrator and any other costs associated with disbursement and winding down the fund, including but not limited to preparing

1 tax documents on behalf of the Fund. Any remainder shall be distributed as  
2 provided in Paragraph 37 of the Consent Order:

3 the remainder shall be distributed consistent with the terms of  
4 the Disbursement Order to a qualified organization(s)  
5 mutually agreed upon by the United States and Defendants,  
6 subject to the approval of the Court, for the purpose of  
7 conducting fair housing enforcement or educational activities  
8 in Los Angeles County, with a particular focus on the City of  
9 Los Angeles.  
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13 8. The United States and Defendants have selected the Housing Rights Center in  
14 Los Angeles to receive any funds remaining after the fees of the Fund  
15 Administrator and any other expenses of the Fund have been paid. The Court  
16 approves this selection.  
17

18 9. The Fund Administrator is hereby ordered to make the payments to the aggrieved  
19 persons listed in paragraph 6 of this Order. For each payment amount set out in  
20 paragraph 6, the Fund Administrator shall also pay a proportionate share of the  
21 interest the funds have accrued while held by the Fund Administrator. The Fund  
22 Administrator is also ordered to make any payment required by paragraphs 7 and  
23 8 of this Order. The Fund Administrator shall make all payments in accordance  
24 with paragraphs 32 through 38 of the Consent Order entered by this Court on  
25 November 12, 2009.  
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3 **ORDERED** this 2nd day of March, 2010:

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*DALE S. FISCHER*

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HONORABLE DALE S. FISCHER  
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, Plaintiff, )

v. )

AIG FEDERAL SAVINGS BANK and )  
WILMINGTON FINANCE, INC., )  
Defendants. )

No. 10cv178-JJF

CONSENT ORDER

I. INTRODUCTION

This Consent Order (Order) is submitted jointly by the parties for the approval of and entry by the Court simultaneously with the filing of the United States' complaint (Complaint) in this action. The Order resolves the claims of the United States that the Defendants, AIG Federal Savings Bank (AIG FSB) and Wilmington Finance, Inc. (WFI), (collectively, "Defendants") have engaged in a pattern or practice of conduct in violation of the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, by allowing wholesale mortgage brokers<sup>1</sup> to charge African-American borrowers higher direct broker fees for residential real estate-related loans than white borrowers. Defendants deny these allegations. The parties submit this Order to resolve fully and finally all claims asserted or that could have been asserted arising out of or relating to the matters referred to in the Complaint.

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<sup>1</sup> For purposes of this Order, wholesale mortgage brokers are independent third-party entities in which the Defendants have no ownership interest and no exclusive relationship, who act as an intermediary with borrowers to procure home-mortgage loan applications for funding by Defendants, and who are paid a fee directly by borrowers for such services. The wholesale mortgage brokers at issue in this lawsuit entered into broker agreements with one or both Defendants regarding their procurement of home-mortgage loan applications for funding by a Defendant.

Defendants AIG FSB and WFI represent that they have ceased their wholesale home-mortgage lending operations in 2006 and 2008, respectively, and WFI represents that it is currently winding down its business operations. Under the provisions of this Order, the Defendants agree that if either Defendant re-enters the wholesale lending business, that Defendant will implement policies and procedures designed to ensure that direct broker fees for their residential loan products are assessed in a nondiscriminatory manner consistent with the requirements of the FHA and ECOA. In addition, Defendants will compensate certain African-American borrowers based on an agreed upon formula to identify such borrowers by reference to, among other factors, the direct mortgage broker fees they paid.

There has been no factual finding or adjudication with respect to any matter alleged by the United States. The parties have entered into this Order to avoid the risks and burdens of litigation, and to resolve voluntarily the claims in the United States' Complaint relating to Defendants' alleged violations of fair-lending laws. The parties agree that full implementation of the terms of this Order will provide a fair and reasonable resolution of the claims of the United States in a manner consistent with the Defendants' legitimate business interests.

## II. BACKGROUND

AIG FSB is a wholly-owned subsidiary of American International Group, Inc. It is a federal savings bank with its principal place of business at One Alico Plaza, 600 King Street, Wilmington, Delaware. WFI is a wholly-owned subsidiary of American International Group, Inc. It is a Delaware corporation with its principal place of business at 401 Plymouth Road, Plymouth Meeting, Pennsylvania. Between approximately July 2003 and May 2006, pursuant to an agreement between AIG FSB and WFI, WFI provided various services for loans that were made and funded by AIG FSB.

In 2006 and 2007 the Office of Thrift Supervision (OTS) conducted examinations of the lending practices of AIG FSB to evaluate compliance with, among other laws, the FHA and the ECOA. Based on analysis of 2005 HMDA lending data, the OTS found reason to believe that AIG FSB had displayed a pattern or practice of charging minority borrowers higher broker fees than similarly situated non-minority borrowers. The OTS referred this matter to the United States Department of Justice (DOJ) for appropriate enforcement pursuant to 15 U.S.C. § 1691e(g).

The United States contends that Defendants engaged in a pattern or practice of discrimination on the basis of race or color by allowing wholesale mortgage brokers to charge higher direct broker fees<sup>2</sup> to African-American borrowers than to white borrowers for loans originated and funded by AIG FSB and/or WFI. The Defendants deny all allegations and claims of discrimination on both factual and legal grounds and maintain that at all times they conducted their lending and other activities in compliance with the fair-lending laws. There has been no factual or legal finding or adjudication with respect to any matter alleged by the United States. Accordingly, the entry of this Order is not, and is not to be construed as, a precedent, admission, or finding of any violation of the FHA or the ECOA by the Defendants. Rather, both parties have agreed to the entry of this Order to resolve voluntarily the claims asserted by the United States in order to avoid the costs, risks, and burdens of litigation.

### III. REMEDIAL ORDER

#### A. General Nondiscrimination Injunction

<sup>2</sup> "Direct" broker fees (sometimes called "up-front" broker fees) means fees paid directly by the borrower to the broker for services rendered by the broker to the borrower in connection with securing a real estate-related loan. A borrower typically pays these fees at closing either with cash brought to the closing, or out of the loan proceeds. Direct broker fees do not include amounts paid by the lender to the broker or miscellaneous fees, such as appraisal costs and title searches.

1. The Defendants, including all of their officers, employees, agents, assignees, successors in interest, and all those in active concert or participation with any of them, are hereby enjoined from engaging in any act or practice in wholesale home mortgage lending that discriminates on the basis of race or color in any aspect of a residential real estate-related transaction in violation of the Fair Housing Act, 42 U.S.C. §§ 3604 and 3605, or in any aspect of a credit transaction in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1). This prohibition includes, but is not limited to, the adoption, performance, or implementation of any policy, practice, or act that results in race or color discrimination against residential mortgagors in the assessment of direct mortgage broker fees.

2. Unless otherwise stated herein, the remedial provisions of this Order shall be implemented within thirty days of the effective date of this Order and shall continue throughout its term. The effective date of this Order shall be the date on which it is approved and entered by the Court.

**B. Applicability of Specific Provisions**

3. Each Defendant represents that it is not currently in the business of wholesale home-mortgage lending<sup>3</sup> and has no plans to re-enter this line of business. Moreover, AIG FSB represents that it currently maintains at least annual fair-lending training appropriate to the nature of its lending activities. AIG FSB shall maintain during the period of this Order at least annual fair lending training appropriate to the nature of its lending activities and regarding the requirements of the FHA and ECOA. Based on the representations and obligations above, the provisions of paragraphs 4-9 shall apply to each Defendant, and to each Defendant's officers, employees, agents, and representatives and all those in active concert or participation with any of

<sup>3</sup> "Wholesale home-mortgage lending" means providing home-mortgage loans in conjunction with wholesale mortgage brokers acting as an intermediary with the borrower.



them with respect to wholesale home-mortgage lending operations, only if that Defendant re-enters the business of wholesale home-mortgage lending during the term of this Order. In the event of such re-entry, the Defendant must notify the United States within thirty days of re-entry, and paragraphs 4-9 must be implemented within ninety days of re-entry.

**C. Pricing Policy and Procedures**

4. AIG FSB and WFI shall each develop and implement, as part of a loan-pricing policy, specific, nonracial standards for the assessment of direct broker fees on residential real estate-related loans that AIG FSB or WFI underwrites, originates, or funds that are designed to avoid unlawful race discrimination by the Defendants. The loan-pricing policy shall also require written documentation of such fees be maintained in each loan file and be among the application documents submitted to either Defendant. These requirements shall be made part of any broker agreement between a wholesale mortgage broker and either Defendant. AIG FSB and WFI have represented that when they have engaged in the wholesale home-mortgage lending business they had in place limits on the amount of yield-spread premiums (YSPs) that may be earned by mortgage brokers on loans. Defendants also shall incorporate YSP limits into their loan-pricing policies.

5. Defendants' loan-pricing policies shall require them to post and prominently display in each location where loan applications are received by the Defendant a notice of non-discrimination (a sample of which is attached as Exhibit A). Defendants shall impose the posting requirements described in this paragraph on all brokers who submit loan applications to the Defendants.

6. Defendants' policy shall require brokers to make the following disclosures to applicants, to the extent not inconsistent with applicable law: (a) the full amount of the direct broker fee, any YSP and all other forms of broker compensation, and that such compensation

may or may not be negotiable between the broker and borrower, and (b) a notice of non-discrimination that provides substantially the same information as is contained in Appendix A. Such disclosures shall be in writing, signed by the broker and the borrower (if the borrower executes), and submitted by the broker to be made part of the loan file by AIG FSB or WFI. This disclosure shall be made as early as practicable but not later than 48 hours prior to the closing of the loan.

7. Defendants' loan-pricing policies shall require all wholesale mortgage brokers from whom they accept wholesale home-mortgage loan applications to comply with the requirements established in paragraphs 4-6. Defendants' policies shall also require an appropriate manager, under the supervision of a designated senior official of AIG FSB or WFI, to review applications received from wholesale mortgage brokers for compliance with loan-pricing policies. Any loan that is not in compliance with the pricing policy may not be funded. All reviews shall be documented and kept in the loan file.

**D. Monitoring Program**

8. Each Defendant shall develop and implement direct broker-fee monitoring programs designed to ensure compliance with this Order. The programs shall be designed to monitor loans sourced through wholesale mortgage brokers and funded by AIG FSB or WFI for potential racial disparities in direct broker-fee levels. Each program also shall require a quarterly review by senior managers of the Defendant with respect to all wholesale home-mortgage loans originated during the preceding quarter by that Defendant. Each such quarterly review shall be documented and presented to the Defendant's respective Board for review and approval not later than sixty days after the end of each quarter. Each quarterly review shall include, but not be limited to, a direct broker-fee analysis designed to detect significant race disparities in such fees with respect to all wholesale loans funded by the Defendant.

a. In the event that any such review discloses significant disparities, the Defendant in question shall attempt to determine the reason(s) for those disparities (if any) and shall promptly take corrective action to address significant disparities that were attributable to a policy or practice of the Defendant, and not justified by legitimate business need. Corrective action shall include, as warranted, financial remediation for borrowers, modifications to the Defendant's pricing policies and/or monitoring programs as appropriate, and modification or termination of broker relationship(s). Defendant shall document all such disparities, determinations, and actions taken and shall provide the quarterly reviews and any documentation and analysis relating thereto to the United States on a quarterly basis.

b. In the event that any such review discloses significant disparities with respect to any particular broker's direct broker fee pricing practices, the Defendant shall require the broker to explain the non-discriminatory reason(s) for those disparities. If there is no reasonable, nonracial explanation for the noted disparities, Defendant shall undertake good faith efforts to require the broker to take prompt corrective action to address the disparities.

If the United States raises any objections to the Defendant's determinations or remedial actions, Defendant and the United States shall meet and confer to consider appropriate steps to address the concerns raised by the United States' review. If the parties are unable to come to an agreement regarding such objections, any party may bring the dispute to this Court for resolution. In that event, the fact that a Defendant's policies and monitoring programs were not objected to by the United States under paragraph 9 of the Order shall be relevant to determining the proper course of action.

**E. Notification to the United States and Right to Object**

9. Each Defendant shall provide a copy of the loan policies required under paragraphs 4-7 and descriptions of the monitoring programs required under paragraph 8, to counsel for the United States within ninety days of any return to the business of wholesale home-mortgage lending by that Defendant.<sup>4</sup> The United States shall have thirty days from receipt of these documents from each Defendant to raise any objections to the relevant Defendant's policies and programs, and, if it raises any, the parties shall confer to resolve their differences. In the event they are unable to do so, any party may bring the dispute to this Court for resolution. Until the Court resolves such a dispute, the disputed policies and programs will not go into effect. Subsequent proposed material revisions to these policies and programs, pursuant to paragraphs 7 and 8 or otherwise, shall be submitted to the United States for objection and resolution in the manner provided for in this paragraph.

**F. Consumer Education**

10. Through the funding mechanism set forth in paragraph 21, Defendants shall provide a minimum of \$1,000,000 to qualified organization(s) to provide credit counseling, financial literacy, and other related educational programs targeted at African-American borrowers. The Defendants will consult with and obtain the non-objection of the United States in selecting recipient(s) of these funds, and the parties shall obtain the Court's approval prior to distribution of the fund.

**G. Equal Credit Opportunity Training Program**

<sup>4</sup> All material required by this Order to be sent to counsel for the United States shall be sent by commercial overnight delivery service addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice, 1800 G Street NW, Washington, DC 20006, Attn: DJ 188-15-11, or by facsimile to 202-514-1116.

11. Each Defendant shall, at least annually, provide training with respect to their responsibilities and obligations under the FHA, the ECOA, and this Order to all management officials, loan officers, and any other employees, or agents who: (a) participate in the pricing of wholesale home-mortgage real-estate loans, or (b) have significant involvement in wholesale home-mortgage lending, including contact with or oversight of brokers. In the event that either Defendant re-enters the business of wholesale home-mortgage lending, that Defendant shall provide training within 30 days after that Defendant's new loan policy is implemented, and during this training, each Defendant shall provide to each participant: (a) a copy of this Order and of the relevant Defendant's new loan pricing policy; and (b) training on the terms of this Order, the relevant new loan pricing policy, the requirements of the Fair Housing and Equal Credit Opportunity Acts, and his or her responsibilities under each.

12. In the event that either Defendant re-enters the wholesale home-mortgage lending business, that Defendant shall secure from each employee or agent specified in the preceding paragraph a signed statement acknowledging that he or she has received a copy of this Order and the loan pricing policy and has completed the initial equal credit opportunity training. These statements shall be substantially in the form of Appendix B (Acknowledgment) and Appendix C (Equal Credit Opportunity Training). During the term of the Order, each new employee or agent whose responsibilities include those set forth in paragraph 11, shall be provided a copy of this Order and given an opportunity to have any questions answered, and shall sign the acknowledgment form statement (Appendix B) within ten days of beginning his or her employment in that position. Defendants shall retain these statements for the duration of the Order, and make them available to the United States upon request.

13. In the event that either Defendant re-enters the wholesale home-mortgage lending business, that Defendant shall offer all brokers from whom it accepts wholesale home-mortgage loan applications the opportunity to undergo fair lending training similar to the training described in paragraph 11 of this Order. Defendants shall retain documentation of any training or requests for training for the duration of the Order, and make such documentation available to the United States upon request.

14. In the event that either Defendant re-enters the wholesale home-mortgage lending business, the training required by this Section shall be conducted by independent qualified third parties approved in advance by the United States. Any expenses associated with this training program shall be borne by the Defendant re-entering the business.

**H. Satisfaction of United States' Claims for Monetary Relief**

15. Defendants shall deposit in an interest-bearing escrow account the total sum of \$6.1 million for the purpose of paying damages to aggrieved persons who may have suffered as a result of the alleged violations of the Fair Housing and Equal Credit Opportunity Acts (the "Settlement Fund"). The Defendants shall provide written verification of the deposit to the United States within five days of the effective date of this Order. Any interest that accrues shall become part of the Settlement Fund and be utilized and disposed of as set forth herein.

16. Within 30 days of the effective date of this Order, the United States shall request any information it believes will assist in identifying aggrieved persons and determining any damages. Defendants shall, within 15 days, supply, to the extent that it is within their control, such information as requested. Requested data may be supplied as a supplement to the database already provided to the United States by Defendants in the course of the United States' investigation.

17. The United States shall, upon reasonable notice, be allowed access to the Defendants' records and files to verify the accuracy of the data provided and to otherwise identify persons entitled to the payments from the Settlement Fund.

18. Within 90 days of the Effective Date of this Consent Order, the United States shall provide to Defendants a list of aggrieved persons and an amount each individual shall receive from the Settlement Fund to compensate for both economic and non-economic damages these persons may have suffered, subject to the conditions set forth in paragraph 19 below. Defendants shall have fifteen days in which to review the list and the United States shall consider in good faith any issues raised by Defendants.

19. Payments from the Settlement Fund to aggrieved persons shall be subject to the following conditions, provided that the details in administration of the Settlement Fund set forth in paragraphs 16, 17, 18, and 20, can be modified by agreement of the parties and without further Court approval:

(a) No aggrieved person shall be paid any amount from the Settlement Fund until he or she has executed and delivered to Defendants a written release, as set forth in Appendix D, of all claims, legal or equitable, that he or she might have against the released persons and entities regarding the claims asserted by the United States in this lawsuit, so long as such claims accrued prior to the entry of this Order; and

(b) No person shall be eligible for payment from the Settlement Fund with respect to a loan if such person has previously received remediation with respect to such loan and has executed a release in exchange for such remediation; and

(c) The total amount paid by the Defendants collectively to the aggrieved persons shall not exceed the amount of the Settlement Fund, including accrued interest.

20. The Defendants shall, no later than 45 days after receiving the compensation list referred to in paragraph 18, notify each identified person eligible for compensation by a letter (using their best efforts to locate each person). The form of this letter shall be subject to the review and approval of the United States. At a minimum, the letter shall state that the identified person is eligible for compensation in the indicated amount provided he or she executes and returns to Defendants a copy of the agreed-upon release, which release shall be enclosed with the notice along with an addressed and postage-paid return envelope. Each letter shall identify the loan(s) the identified person has or had with AIG FSB or WFI. The letter shall explain the complaint resolution program referenced in paragraph 22 of this Order. If the parties are unable to agree on the terms of the letter, any party may bring the dispute to the Court for resolution. Any letters that are returned with a forwarding address shall promptly be re-sent to that new address. Defendants shall provide an accounting of these notifications, indicating the name and address to which each was dispatched, within the 45-day period referred to in this paragraph. Defendants shall issue checks in the amount indicated on the compensation list to all identified persons who execute and return the releases. Defendants shall issue and mail such checks no later than 21 days after the receipt of the release. Defendants shall set forth reasonable deadlines for requirements of return of releases, and for the timely deposit of checks, subject to approval of the United States, so that the compensation is distributed and checks are presented for payment or become void prior to the date that is one year from the date the initial notifications are sent. The Defendants shall provide, as part of the reporting required in paragraph 25, an accounting of releases received, checks sent, and notifications for which no response has been received or that were reported to be undeliverable. The United States may make its own efforts to locate aggrieved persons.



21. Any moneys not distributed from the Settlement Fund including accrued interest within one year of the date the initial notifications are sent to persons deemed to be aggrieved by the United States pursuant to paragraph 19 (Remaining Moneys) shall be distributed for educational purposes as provided for in paragraph 10. In the event the Remaining Moneys total less than \$1,000,000 at that time, Defendants shall replenish the Settlement Fund so that it contains \$1,000,000 for distribution for those educational purposes.

22. In addition to the above, during the period of this Order the Defendants shall maintain a robust complaint resolution program to address consumer complaints regarding wholesale home-mortgage loans originated by the Defendants. Documentation regarding such complaint resolution program, including documentation of individual complaints and resolutions, if any, shall be made available to the United States on a quarterly basis and included in the semi-annual reports referenced in paragraph 25. A person shall not be deemed ineligible for the complaint resolution program on the basis of having executed the release described in paragraph 19(a), but there is no requirement under this Order that any complaint necessarily be resolved for or against Defendants.

#### IV. EVALUATING AND MONITORING COMPLIANCE

23. For the duration of this Order, both AIG FSB and WFI shall retain all records relating to their obligations hereunder, including their wholesale home-mortgage lending activities, as well as their compliance activities as set forth herein. The United States shall have the right to review and copy such records upon request, including loans files and electronic data for loans made during the period of this Order.

24. Each Defendant shall provide to counsel for the United States the data on its lending that is submitted to the Federal Financial Institutions Examination Council (FFIEC) pursuant to the Home Mortgage Disclosure Act and the Community Reinvestment Act. The data

will be provided in the same format in which it is presented to the FFIEC, within thirty days of its submission to the FFIEC each year, for the duration of this Order, including the record layout.

25. In addition to the submission of any other plans or reports specified in this Order, both AIG FSB and WFI shall submit semi-annual reports to the United States on their progress in completing the requirements of paragraphs 3-22 of this Order. Each such report shall provide a complete account of each Defendant's actions to comply with each requirement of this Order during the previous year, an objective assessment of the extent to which each quantifiable obligation was met, an explanation of why any particular component fell short of meeting its goal for that year, and any recommendations for additional actions to achieve the goals of this Order. Each Defendant shall submit its first report no later than 180 days after entry of this Order, and every 180 days thereafter for so long as the Order is in effect. In addition, if applicable, each Defendant shall attach to the semi-annual reports representative copies of training materials disseminated pursuant to this Order.

26. In the event AIG FSB seeks to transfer or assign its charter or either AIG FSB or WFI seeks to transfer or assign all its operations in a transaction that requires the approval of a federal bank or thrift regulatory agency, AIG FSB or WFI must notify counsel for the United States at the same time it notifies the regulatory agency. If such notification is made and the relevant regulatory agency approves such transaction, this Order shall terminate with respect to that Defendant upon consummation of the transfer or assignment transaction, except that the requirements of paragraphs 10 and 15-21 of this Order shall continue in force against the Defendant's successor in interest until such time as those requirements are completed. In the event either AIG FSB or WFI seeks to transfer or assign all or part of its operations in a transaction that does not require the approval of a federal bank or thrift regulatory agency and the

successor or assign is engaged in or intends to carry on a wholesale mortgage-lending business, the relevant Defendant shall, as a condition of sale, obtain the written agreement of the successor or assign to be bound by any obligations remaining under this Order which are applicable to that Defendant for the remaining term of this Order. Nevertheless, in the event of a proposed, arms-length transaction of transfer or assignment of operations affecting AIG FSB or WFL, the Defendants may petition the United States to waive the requirement for a successor or assign to be bound under this Order, and the United States, after such review, may, in its discretion, waive such requirement. The Defendants shall supply such information as the United States may request to enable the United States to effectively review the waiver petition.

#### V. ADMINISTRATION

27. The requirements of this Order shall be in effect for three years, except as specified elsewhere in this Order, at which time they will expire and be of no further applicability. Notwithstanding the above, this Order may be extended further upon motion of the United States to the Court, for good cause shown. Upon satisfaction of paragraphs 10 and 15-21, or upon making arrangements, in which the United States concurs, that all procedures and requirements of these paragraphs will be satisfied, any Defendant may seek and obtain a separate dismissal of the case against it in the event the Order no longer applies to it or upon demonstration to the Court that it has permanently ceased its business operations.


28. Any time limits for performance fixed by this Order may be extended by mutual written agreement of the parties. Other modifications to this Order may be made only upon approval of the Court, upon motion by either party. The parties recognize that there may be changes in relevant and material factual circumstances during the term of this Order which may impact the accomplishment of its goals. The parties agree to work cooperatively to discuss and attempt to agree upon any proposed modifications to this Order resulting therefrom.

29. In the event that any disputes arise about the interpretation of or compliance with the terms of this Order, the parties shall endeavor in good faith to resolve any such dispute between themselves before bringing it to this Court for resolution. The United States agrees that if it reasonably believes that any Defendant has violated any provision of this Order, it will provide the appropriate Defendant written notice thereof and allow thirty days to resolve the alleged violation before presenting the matter to this Court. In the event of either a failure by a Defendant to perform in a timely manner any act required by this Order or an act by a Defendant in violation of any provision hereof, the United States may move this Court to impose any remedy authorized by law or equity, including attorneys' fees and costs.

30. Each Defendant's compliance with the terms of this Order, or the termination of this Order with respect to a Defendant in accordance with its provisions, shall fully and finally resolve all claims of the United States relating to the alleged violations by that Defendant of the fair lending laws, as alleged in the Complaint in this action, including all claims for equitable relief and monetary damages and penalties. Each party to this Order shall bear its own costs and attorney's fees associated with this litigation.

31. The Court shall retain jurisdiction for the duration of this Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice.

SO ORDERED, this 19 day of March, 2010.

  
UNITED STATES DISTRICT JUDGE

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

For Defendant AIG Federal Savings Bank

For Defendant Wilmington Finance, Inc.

  
MICHAEL B. MIERZEWSKI

  
THOMAS M. HEFFERON

Arnold & Porter LLP  
555 Twelfth Street, NW  
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Tel: (202) 942-5995  
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For Plaintiff United States

STEVEN H. ROSENBAUM  
Chief

DONNA M. MURPHY  
Deputy Chief

  
HOWARD R. GRIFFIN  
Attorney

  
ROBIN L. DULL  
Attorney

U.S. Department of Justice  
Civil Rights Division  
Housing and Civil Enforcement Section  
950 Pennsylvania Ave. NW  
Northwest Building  
Washington, DC 20530  
howard.r.griffin@usdoj.gov  
robin.dull@usdoj.gov  
Tel: (202) 514-4741  
Tel: (202) 305-7780

APPENDIX A

**We do Business in Accordance with  
Federal Fair Lending Laws**

**UNDER THE EQUAL CREDIT OPPORTUNITY  
ACT, IT IS ILLEGAL TO DISCRIMINATE IN ANY  
CREDIT TRANSACTION:**

**On the basis of race, color, national origin, religion,  
sex, marital status, or age;**

**Because income is from public assistance; or**

**Because a right has been exercised under the Federal  
Consumer Credit Protection Laws.**

**IF YOU BELIEVE YOU HAVE BEEN  
DISCRIMINATED AGAINST, YOU SHOULD SEND  
A COMPLAINT TO:**

Office of Thrift Supervision

OR

U.S. Department of Justice

Washington, DC 20530

Tel: 1-800-896-7743

Website:

<http://www.usdoj.gov/crt/housing>

APPENDIX B

Employee Acknowledgment

I acknowledge that on \_\_\_\_\_, 2010, I was provided copies of the Consent Order entered by the Court in United States v. AIG Federal Savings Bank, et al. (D. Del.), and the loan policy developed pursuant thereto. I have read and understand these documents and have had my questions about these documents answered. I understand my legal responsibilities and shall comply with those responsibilities.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date

APPENDIX C

Employee Training Certification

I certify that on \_\_\_\_\_, 2010, I received training with respect to my responsibilities under the Consent Order entered by the Court in United States v. AIG Federal Savings Bank, et al. (D. Del.), and the federal fair lending laws. I have had the opportunity to have my questions about them answered. I understand my legal responsibilities not to discriminate under the federal fair lending laws, including the Equal Credit Opportunity Act and the Fair Housing Act, and shall comply with those responsibilities.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



APPENDIX D

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. AIG Federal Savings Bank and Wilmington Finance, Inc. (D. Del.), and the payment to me of \$ \_\_\_\_\_, pursuant to the Consent Order and effective upon that payment, I hereby release and forever discharge all claims, rights, remedies, and recoveries related to the facts at issue in the litigation referenced above or in any way related to that litigation, and release and forever discharge all claims, rights, remedies, and recoveries arising from housing and credit discrimination alleged in that litigation in connection with my loan(s), known and unknown, up to and including the date of execution of this release.

I understand that this releases those claims, rights, remedies and recoveries against AIG Federal Savings Bank and/or Wilmington Finance, Inc., and against any and all entities, parents, predecessors, successors, subsidiaries, and affiliates related to either of those companies, and against any and all of the past and present directors, officers, agents, managers, supervisors, shareholders, and employees and their heirs, executors, administrators, successors in interest, or assigns of either of those companies in connection with my loan(s).

Executed on \_\_\_\_\_, 2010.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:09-cv-2459-WBH
	)	
GEORGIAN MANOR CONDOMINIUM	)	
ASSOCIATION, INC.; JENNIFER	)	
SHERROUSE; HN REAL ESTATE	)	
GROUP, LLC, d/b/a HARRY NORMAN	)	
REALTORS; JOHN BRANCH, JR.;	)	
and the ESTATE OF JEAN BRANCH,	)	
	)	
Defendants.	)	
_____	)	

**CONSENT ORDER BETWEEN PLAINTIFF UNITED STATES AND DEFENDANTS  
HARRY NORMAN REALTORS AND JENNIFER SHERROUSE**

1. Plaintiff, United States of America, initiated this action on September 8, 2009, on behalf of Complainant Fair Metro Fair Housing Services pursuant to Section 812, and on behalf of other aggrieved persons pursuant to Section 814(a) of the Fair Housing Act, as amended 42 U.S.C. §§ 3612(o) and 3614(a), respectively. The complaint alleges that Defendants engaged in discrimination because of familial status in the sale or the rental of dwellings at 3648 Peachtree Road, Atlanta, Georgia (the "subject property"), in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*

2. The United States and Defendants Harry Norman Realtor and Jennifer Sherrouse have agreed to the entry of this Consent Order to resolve all claims of the United States against Defendants Harry Norman Realtor and Jennifer Sherrouse (collectively "the Real Estate

Defendants”) and to avoid further litigation.<sup>1</sup>

### **I. GENERAL INJUNCTION**

3. The Real Estate Defendants, their agents, employees, successors, and all persons in active concert or participation with them are hereby enjoined, with respect to the sale or rental of dwellings, from:

- a. Refusing to sell or rent after the making of a bona fide offer, or refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying, a dwelling to any person because of familial status; or
- b. Making, printing, or publishing, or causing to be made, printed, or published 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 an intention to make any such preference, limitation, or discrimination.

### **II. INJUNCTIVE RELIEF AGAINST DEFENDANTS HARRY NORMAN REALTORS AND JENNIFER SHERROUSE**

4. Within thirty (30) days after the date of entry of this Consent Order, the Real Estate Defendants shall take the following steps to notify the public that they do not discriminate:

- a. Continue to prominently display at all offices where the Real Estate Defendants and/or their agents or employees currently or subsequently use for the sale of dwellings or otherwise do business a fair housing sign no smaller than ten (10) inches by fourteen (14) inches that indicates that all properties are available on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement;

<sup>1</sup> On April 8, 2010, the Court entered a consent order resolving the United States’ claims against Defendants John Branch, Jr. and the Estate of Jean Branch.

b. For any of the advertising produced after the date of this agreement, the Real Estate Defendants shall include the words "Equal Housing Opportunity" and the fair housing logo. Such advertising includes but is not limited to any website owned or operated by them; print advertising, including in newspapers, magazines, flyers, for sale or for rent signs, pamphlets, handouts, telephone directories, brochures, and other written and promotional literature; and radio, television or other media broadcasts. The words and logo shall be prominently placed and easily readable (or audible in the case of radio advertisement). This requirement does not compel the Real Estate Defendants to advertise in any of these media, but does require compliance with this provision whenever the Real Estate Defendants so advertise;

5. Within thirty (30) days after the date of entry of this Consent Order, the Real Estate Defendants shall include the following phrase in all listing contracts, exclusive or non-exclusive, and on their primary website(s), using letters of equal or greater size to those of the text in the body of the document:

We are an equal housing opportunity provider. We do not discriminate on the basis of race, color, sex, national origin, religion, disability or familial status (having children under age 18).

6. Within one hundred twenty (120) days after the date of entry of this Consent Order, the Real Estate Defendants and all agents and employees of theirs involved in showing, listing, selling, promoting, or providing information about properties in the Atlanta metropolitan region shall undergo in-person training on the Fair Housing Act, with specific emphasis on discrimination because of familial status. The training shall be conducted by an independent, qualified third party, approved in advance by the United States, and any expenses associated with this training shall be borne by Defendants Harry Norman Realtors and Jennifer Sherrouse equally. The Real

Estate Defendants shall obtain from the trainer certifications of attendance, executed by each individual who received the training, confirming their attendance, in a form acceptable to the United States. This confirmation shall include the name of the course, the date the course was taken, and the length of the course and/or time within which the course was completed. Within one hundred twenty (120) days from the date of entry of this Consent Order, the Real Estate Defendants shall provide to all individuals covered by this paragraph a copy of this Consent Order and secure a signed statement from each agent or employee acknowledging that he or she has received and read the Consent Order, has had the opportunity to have questions about the Consent Order answered, and agrees to abide by the relevant provisions of the Consent Order. This statement shall be in the form of Exhibit A.

7. During the term of this Consent Order, within five (5) days after each new agent or employee becomes involved in showing, listing, selling, promoting or providing information about any property in the Atlanta metropolitan region, the Real Estate Defendants shall provide a copy of this Consent Order to said agent or employee and secure the signed statement (in the form of Exhibit A) from each agent or employee acknowledging that he or she has received and read the Consent Order, has had the opportunity to have questions about the Consent Order answered, and agrees to abide by the relevant provisions of the Consent Order.

8. During the term of this Consent Order, the United States may take steps to monitor the compliance by the Real Estate Defendants with this Consent Order including, but not limited to, conducting fair housing tests of Defendants and their agents or employees.

9. Within one hundred twenty (120) days after the date of entry of this Consent Order, and every six (6) months thereafter for the duration of this Order, the Real Estate Defendants shall deliver to counsel for the United States a report containing the following information about each

Defendant's compliance efforts during the preceding reporting period.

- a. All new signed statements of agents and employees of the Real Estate Defendants referred to in paragraphs 6 and 7 above;
  - b. Representative copies of standard advertising used by the Real Estate Defendants during the reporting period sufficient to verify that such advertisement complies with paragraphs 4(b);
  - c. Representative copies of the Real Estate Defendants' standard listing contract and the home page of its website sufficient to show that these documents comply with paragraph 5;
  - d. For the first report, photographs of the offices of the Real Estate Defendants showing the fair housing signs, pursuant to paragraph 4(a), and for subsequent reports, a sworn statement from Defendants Harry Norman Realtors and Jennifer Sherrouse that the signs mentioned in the previous report are still displayed along with photographs of signs at any new office not previously photographed in a report, if applicable; and
  - e. Copies of all new training certificates referred to in paragraphs 6 and 7.
10. The Real Estate Defendants shall preserve all records that are the source of, contain, or relate to any of the information pertinent to the obligations under this Consent Order, including, but not limited to, contracts for the sale or purchase of dwellings; listings of dwellings to which Defendants have access; and advertising literature. Upon reasonable notice to counsel for the Real Estate Defendants, representatives of the United States shall be permitted to inspect and copy all such records at any and all reasonable times or, upon request by the United States, the Real Estate Defendants shall provide copies of such documents.
11. The Real Estate Defendants shall notify counsel for the United States in writing within

fifteen (15) days of receipt of any written or oral complaint against either Defendant, or against either Defendant's agents or employees, regarding discrimination based on familial status. If the complaint is written, the Real Estate 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 (if known). The Real Estate Defendants shall also promptly make available to the United States all relevant, non-privileged information the United States may request concerning any such complaint and shall inform the United States within fifteen (15) days of any resolution of such complaint.

### **III. COMPENSATION OF AGGRIEVED PERSONS**

12. No later than fourteen (14) days after the date of entry of this Consent Order, the Real Estate Defendants shall send to counsel for the United States, via overnight delivery, a check made payable to Metro Fair Housing Services in the amount of five thousand dollars (\$5,000), for the purpose of compensating the Complainant.<sup>2</sup>

13. When counsel for the United States has received the check from the Real Estate Defendants payable to MFHS and a signed release in the form of Exhibit B from MFHS, counsel for the United States shall deliver the check to MFHS and the original, signed release to counsel for Defendants. MFHS shall not be paid until it has executed and delivered to counsel for the United States the release at Exhibit B.

14. Within fourteen (14) days after the date of entry of this Consent Order, the Real Estate Defendants shall deposit thirty thousand dollars (\$30,000) into an interest-bearing escrow account

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<sup>2</sup> The checks should be sent by overnight delivery to the following address: Chief, Housing and Civil Enforcement Section, Civil Rights Division, 1800 G Street, N.W. Suite 7002, Washington, DC 20006, Attn: DJ# 175-19-377.

for the purpose of paying damages to any aggrieved persons who may have suffered harm as a result of Defendants' alleged policy of not selling to families with children. Any interest that accrues to the Settlement Fund shall become part of the Settlement Fund and be utilized as set forth herein. In addition, within ten (10) business days of the establishment of the Settlement Fund, the Real Estate Defendants shall submit proof to the United States that this account has been established and the funds deposited.

15. Within thirty (30) days after the date of entry of this Consent Order, the Real Estate Defendants shall arrange and publish a Notice to Potential Victims of Housing Discrimination ("Notice") as attached hereto at Exhibit C, informing the public of this settlement and of the Settlement Fund. The Notice shall be no smaller than three columns by six inches and thereafter, shall be published on four occasions in the *Atlanta Journal-Constitution*. The publication dates shall be separated from one another by at least seven (7) days. The Real Estate Defendants shall provide proof to Counsel for the United States that the Notices have been published within fifteen (15) days after the last advertisement has been published.

16. The United States shall investigate the claims of the aggrieved persons and, within one hundred eighty (180) days after the date of entry of this Consent Order, shall make a preliminary determination of which persons are aggrieved and an appropriate amount of damages that should be paid to each such person. The United States will inform the Real Estate Defendants in writing of its preliminary determinations, together with a copy of a sworn declaration from each aggrieved person setting forth the factual basis of the claim. The Real Estate Defendants shall have thirty (30) days to review the declaration(s) and provide any documents or information that they believe may refute the claim to the United States.

17. After receiving the Real Estate Defendants' comments, the United States shall submit its



final recommendations to the Court for approval, identifying the aggrieved persons and an appropriate amount of damages that should be paid to each such person, together with a copy of the sworn declarations and any documents or information submitted by Defendants. Within ten (10) days of a Court order providing for the distribution of funds to aggrieved persons, the Real Estate Defendants shall deliver to counsel for the United States checks payable to the aggrieved persons in the amounts approved by the Court.

18. In no event shall the aggregate of all checks from the Real Estate Defendants to the aggrieved persons exceed the sum of thirty thousand dollars (\$30,000) plus accrued interest.

19. When counsel for the United States has received a check from the Real Estate Defendants payable to an aggrieved person and a signed release in the form of Exhibit B from the aggrieved person, counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to the Real Estate Defendants. No aggrieved person shall be paid until he/she has signed and delivered to counsel for the United States the release at Exhibit B.

20. In the event that less than the total amount in the Settlement Fund including accrued interest is distributed to aggrieved persons, the remainder shall be distributed to qualified organization(s) mutually agreed upon by the United States and the Real Estate Defendants, subject to approval of the Court, for the purpose of conducting fair housing enforcement or educational activities in the Atlanta metropolitan area.

#### **IV. CIVIL PENALTY**

21. Within thirty (30) days after the entry of this Consent Order, the Real Estate Defendants shall pay a total of twenty-five thousand dollars (\$25,000) to the United States as a civil penalty, 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."

**V. SCOPE AND DURATION OF CONSENT ORDER**

22. The provisions of this Consent Order shall apply to the Real Estate Defendants, their employees, agents, successors, and all persons acting in active concert or participation with them.
23. This Consent Order is effective immediately upon its entry by the Court and shall remain in effect for three (3) years.
24. The Court shall retain jurisdiction for the duration of this Consent Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice.
25. All parties shall be responsible for their own attorney's fees and court costs, except as provided for in Section VII below.

**VI. REMEDIES FOR NON-COMPLIANCE, TIME FOR PERFORMANCE, AND MODIFICATIONS**

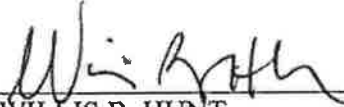
26. The United States may move the Court to extend the period in which this Consent Order is in effect if either of the Real Estate Defendants violates one or more terms of the Order or if the interests of justice otherwise require an extension of the terms of the Order.
27. Any time limits for performance imposed by this Consent Order may be extended by mutual written agreement of the parties.
28. 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 the United States contends that there has been a failure by either of the Real Estate Defendants, whether willful or otherwise, to perform in a timely manner any act required by this 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 or Defendants' violation or failure to perform.

29. The parties agree that in the event that either of the Real Estate Defendants engages in any future violation of the Fair Housing Act, such violation shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d).

**IT IS SO ORDERED:**

This 12 day of November, 2010.

  
\_\_\_\_\_  
WILLIS B. HUNT  
UNITED STATES DISTRICT COURT JUDGE

The terms of this Consent Order have been agreed to by the Plaintiff United States of America and Defendants Harry Norman Realtors and Jennifer Sherrouse, as indicated by the signatures below, as well as by the Complainant, Metro Fair Housing Services, and the parties request the entry of this Consent Order:

FOR THE UNITED STATES:

SALLY Q. YATES  
United States Attorney  
Northern District of Georgia

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

/s/ Mina Rhee  
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FOR DEFENDANTS HARRY NORMAN REALTORS AND JENNIFER SHERROUSE:

/s/ Monica K. Gilroy  
Monica K. Gilroy  
Dickenson Gilroy LLC  
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Alpharetta, Georgia 30022  
(678) 280-1922  
mkg@dickensongilroy.com

**Exhibit A**

**Employee/Agent Acknowledgment of Receiving and Reviewing Consent Order**

I have received a copy of the Consent Order entered in *United States v. Georgian Manor Condominium Association, et al.*, Civil Action No. 1:09-cv-2459 (N.D. Ga.). The Consent Order was explained to me by my employer, and all questions concerning these documents were answered. I have read and understood the Consent Order.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
EMPLOYEE/AGENT NAME (PRINT)

\_\_\_\_\_  
EMPLOYEE/AGENT SIGNATURE

**Exhibit B**

Release

In consideration for the parties' agreement to the terms of the Consent Order as to Defendants Harry Norman Realtors and Jennifer Sherrouse entered in *United States v. Georgian Manor Condominium Association, et al.*, Civil Action No. 1:09-cv-2459 (N.D. Ga.), and Defendants' payment to me of \$ \_\_\_\_\_, pursuant to 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 entry of the Consent Order in this case, that I may have against any of the Defendants, all related entities, parents, predecessors, successors, subsidiaries and affiliates, and all of their past and present directors, officers, agents, managers, supervisors, shareholders and employees and their heirs, executors, administrators, successors or assigns.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Signature]

**Exhibit C**

**NOTICE TO POTENTIAL VICTIMS OF HOUSING DISCRIMINATION  
BECAUSE OF FAMILIAL STATUS (HAVING CHILDREN UNDER  
AGE 18) AT GEORGIAN MANOR CONDOMINIUMS,  
3648 PEACHTREE ROAD, ATLANTA, GEORGIA**

On \_\_\_\_\_, 2010, the United States District Court for the Northern District of Georgia entered a Consent Order resolving a housing discrimination lawsuit brought by the United States. The lawsuit alleged that Defendants engaged in a pattern or practice of housing discrimination because of familial status (having children under age 18) at the Georgian Manor Condominiums, 3648 Peachtree Road, Atlanta, Georgia, in violation of the federal Fair Housing Act.

Under the Consent Order, a Settlement Fund has been established to compensate persons whose rights may have been violated. You may qualify to recover from this Settlement Fund if you asked about renting or buying an apartment at Georgian Manor and, – *because of your familial status or the familial status of someone who resided or would have resided with you* – you were denied an opportunity to rent an apartment. You may also qualify to recover from this Settlement fund if – *because of your familial status or the familial status of someone who resided or would have resided with you* – you were discouraged from applying to live at Georgian Manor you asked about renting or buying and were not informed of or offered all available apartments, or were otherwise discriminated against in connection with attempt to buy or rent a unit.

*If you believe you have been discriminated against because of familial status in connection with the above-listed property, please contact the United States Department of Justice at:*

***1-800-896-7743, mailbox 9998.***

*You may also write to:*

***United States Department of Justice, Civil Rights Division Housing and Civil  
Enforcement Section, 950 Pennsylvania Ave. N.W. -G St, Washington, DC 20530. Attn:  
DJ # 175-69-39***

**You must call or write on or before [no more than 180 days after \_\_\_\_\_, 2010,] and your message or letter must include your name, address, and, if possible, at least TWO telephone numbers where you may be reached.**

