

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	CIV. 09-4153-KES
)	
Plaintiff,)	
)	
vs.)	ORDER AWARDING CIVIL
)	PENALTIES AND INJUNCTIVE
TK PROPERTIES, L.L.C.;)	RELIEF AGAINST
SCOTT TERVEEN;)	DEFENDANTS ANDERSON
ANN WAGNER; and)	AND WAGNER
COREY ANDERSON,)	
)	
Defendants.)	

On October 15, 2010, the United States filed a complaint on behalf of Charlotte and Untoma Gadsden, Michelle Chevalier, and Jenny Johnson and their minor children, alleging that defendants TK Properties, L.L.C., Scott Terveen, Corey Anderson, and Ann Wagner violated the Fair Housing Act (“FHA”) by discriminating on the basis of race, 42 U.S.C. § 3612(o), and that defendants’ conduct constitutes a pattern or practice of discrimination or a denial to a group of persons of rights protected by the FHA and such denial raises an issue of general public importance. 42 U.S.C. § 3614(a). Defendants Anderson and Wagner failed to answer the United States’ complaint. Accordingly, on July 21, 2010, the court entered a default

judgment against them as to their liability under the FHA. (Default J., Docket No. 21.)¹

On January 11, 2010, the United States filed a Motion for an Order Awarding Civil Penalties and Injunctive Relief Against Defendants Anderson and Wagner. Anderson and Wagner have not responded. Having considered the motion and brief in support, the court finds that the following order is appropriate. It is

ORDERED, ADJUDGED, AND DECREED as follows:

I. CIVIL PENALTY

1. Within thirty (30) days after the date of this order, defendant Anderson must issue a certified check or money order in the amount of Fifteen Thousand Dollars (\$15,000) to the United States Treasury as a civil penalty, pursuant to 42 U.S.C. § 3614(d)(1)(C), to vindicate the public interest. Defendant Anderson must send this payment to counsel for the United States, via overnight mail, to: Chief: Housing and Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 1800 G. Street, N.W., Washington, D.C. 20006.

2. Within thirty (30) days after the date of this Order, defendant Wagner must issue a certified check or money order in the amount of

¹ The United States' claims against defendants TK Properties L.L.C. and Scott Terveen were resolved by way of a consent order filed with the court on December 21, 2010. Docket No. 29.

Fifteen Thousand Dollars (\$15,000) to the United States Treasury as a civil penalty, pursuant to 42 U.S.C. § 3614(d)(1)(C), to vindicate the public interest. Defendant Wagner must send this payment to counsel for the United States, via overnight mail, to: Chief: Housing and Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 1800 G. Street, N.W., Washington, D.C. 20006.

II. INJUNCTIVE RELIEF

3. Defendant Anderson is hereby enjoined from:
 - a. Discriminating against any person in the terms, conditions, or privileges of renting a dwelling unit, or in the provision of services or facilities in connection therewith, because of race;
 - b. Making, printing, publishing, or causing to be made, printed, or published any notice, statement, or advertisement with respect to the rental of a dwelling unit that states any preference, limitation, or discrimination based on race; or
 - c. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of a person having exercised or enjoyed, or on account of a person having aided and encouraged any other person in the exercise or enjoyment of, any right granted by 42 U.S.C. §§ 3603-3606.

4. Defendant Anderson is hereby enjoined from operating, consulting, managing, staffing, participating in, working in (whether paid or unpaid), or otherwise having any involvement in the management, rental, or maintenance of any dwelling, as defined by the Fair Housing Act, 42 U.S.C. § 802(b).

5. Defendant Wagner is hereby enjoined from:

- a. Discriminating against any person in the terms, conditions, or privileges of renting a dwelling unit, or in the provision of services or facilities in connection therewith, because of race;
- b. Making, printing, publishing, or causing to be made, printed, or published any notice, statement, or advertisement with respect to the rental of a dwelling unit that states any preference, limitation, or discrimination based on race; or
- c. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of a person having exercised or enjoyed, or on account of a person having aided and encouraged any other person in the exercise or enjoyment of, any right granted by 42 U.S.C. §§ 3603-3606.

6. Defendant Wagner is hereby enjoined from operating, consulting, managing, staffing, participating in, working in (whether paid or unpaid), or otherwise having any involvement in the management, rental, or

maintenance of any dwelling, as defined by the Fair Housing Act, 42 U.S.C. § 802(b).

III. SCOPE AND DURATION OF CONSENT ORDER

7. Section I shall remain in effect until defendants Anderson and Wagner satisfy their respective civil penalty obligations under this order.

8. Section II shall remain in effect for three (3) years after the date of the entry of this order.

9. The court shall retain jurisdiction for the duration of this order to enforce its terms, after which time the case shall be dismissed with prejudice. The court may extend the duration of the order in the interests of justice.

IV. REMEDIES FOR NON-COMPLIANCE

10. The parties will 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. But in the event the United States contends that there has been a failure by defendant Anderson or defendant Wagner, whether willful or otherwise, to perform in a timely manner any act required by this order or otherwise to act in conformance with any provision thereof, the United States may move this court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been

performed, and an award of any damages, costs, and reasonable attorneys' fees that may have been occasioned by the violation or failure to perform.

Dated March 9, 2011.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
CHIEF JUDGE