

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY/AMERICUS DIVISION**

----- x

QUEEN KING, SHARON JOHNSON and	:	
EVELYN REED, on behalf of themselves and all	:	
others similarly situated; BONITA MAYS,	:	
individually; and the CONCERNED CITIZENS	:	Civil Action No. 1:00-CV-109-1 (WLS)
COMMITTEE OF BLAKELY & EARLY	:	
COUNTY, GEORGIA.,	:	(Class Action)
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
CITY OF BLAKELY HOUSING AUTHORITY;	:	
CITY OF BLAKELY GEORGIA; and DAN	:	
COOPER, individually and in his representative	:	
capacity,	:	
	:	
Defendants.	:	

----- x

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 1:02-CV-87-3 (WLS)
	:	
CITY OF BLAKELY HOUSING AUTHORITY;	:	
CITY OF BLAKELY GEORGIA; and DAN	:	
COOPER, individually and in his official capacity	:	
as Executive Director of the City of Blakely	:	
Housing Authority,	:	
	:	
Defendants.	:	

----- x

CONSENT ORDER

I. INTRODUCTION

Plaintiffs Queen King, Sharon Johnson, and Evelyn Reed, on behalf of themselves and a class of past, present, and future African-American tenants and applicants of the Blakely Housing Authority who were, are, or will be subjected to racial discrimination, along with plaintiffs Bonita Mays, individually, and the Concerned Citizens Committee of Blakely and Early County, Georgia (collectively “Private Plaintiffs”) filed their complaint on June 26, 2000 against the City of Blakely Housing Authority (BHA) and its executive director Dan Cooper. In their complaint, Private Plaintiffs allege that the BHA and Dan Cooper: (1) established, maintained, and perpetuated a racially-segregated and unequal system of low-income public housing; (2) subjected African-American tenants of the BHA to more onerous terms and conditions in the rental of housing because of their race and/or color; and (3) retaliated against Private Plaintiffs for organizing and protesting against the allegedly discriminatory conduct. Specifically, Private Plaintiffs claim that such conduct violates the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.* (specifically 42 U.S.C. §§ 3604(a), (b), (c); 3608; and 3617); Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulations, 24 C.F.R. §§ 1.1-1.10; the Georgia Fair Housing Law, Ga. Code Ann. §§ 8-3-200, *et seq.* (2002), and its implementing regulations, Ga. Comp. R. & Regs. 186-2-.02(1) and (2) (2001); the Thirteenth and Fourteenth Amendments to the United States Constitution; Article I, § 1, Part V of the Constitution of the State of Georgia; and 42 U.S.C. §§ 1982 and 1983. The BHA and Dan Cooper deny all of the Private Plaintiffs’ allegations and contend that they have taken effective steps to address and prevent any racial discrimination at the BHA.

By order dated September 17, 2003, the Court certified a class, under Rule 23(b)(2), Fed. R. Civ. P., consisting of all past, present, and future African-American tenants and applicants of the Blakely Housing Authority who were, are, or will be subjected to racial discrimination, in violation of the constitutional provisions, laws, rules and regulations set forth in the preceding paragraph (the “Class”). Plaintiffs Queen King, Sharon Johnson and Evelyn Reed are the “Class Representatives.”

The United States filed its complaint on June 10, 2002, to enforce the provisions of the Fair Housing Act (“FHA”), Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.* The United States’ complaint alleges that Defendants the Blakely Housing Authority and Dan Cooper: (1) refused to rent, refused to negotiate for the rental of, or otherwise made unavailable dwellings because of the race or color of renters, in violation of 42 U.S.C. § 3604(a) and (b); (2) made statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on race or color, or an intention to make such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c); and (3) coerced, intimidated, threatened or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights under the FHA, in violation of 42 U.S.C. § 3617. The BHA and Dan Cooper also deny all of the United States’ allegations and contend that they have taken effective steps to address and prevent any racial discrimination at the BHA.

II. THE PRIVATE PLAINTIFFS’ ALLEGATIONS

At all times relevant to this case, the BHA operated multifamily residential rental properties totaling approximately 159 dwelling units in five apartment complexes in Blakely,

Georgia: Cedar Hills Apartments; Willis Cain Apartments; Cedar Hills II Apartments; Willis Cain II Apartments; and Baptist Branch Apartments ("BHA apartment complexes").

First, the Private Plaintiffs allege that since at least 1994 the BHA and Dan Cooper have engaged in improper steering based on race at its apartment complexes. Specifically, Defendants have established, maintained and perpetuated racially segregated housing by selecting housing applicants to fill apartment vacancies based on race, rather than in compliance with the BHA's written policy establishing specific, non-race-based methods for filling vacancies. For example, the BHA, through its executive director Dan Cooper, repeatedly violated its own written policies by allowing White applicants to skip over Black applicants with higher positions on the BHA waiting lists so that the White applicants could be placed in Cedar Hills II, which the BHA reserved for White tenants.

Second, Private Plaintiffs claim that Defendants have imposed more onerous terms and conditions of rental on African-American tenants than White tenants. For example, Dan Cooper conducted armed patrols of the predominately African-American areas of the apartment complexes, and harassed and detained African-American tenants and their guests, without provocation, while not engaging in such conduct in the predominately White areas of the complexes.

Lastly, Private Plaintiffs allege that Defendants retaliated against them for forming a tenants' association to address the discriminatory conduct, as well as for engaging in public protests about such conduct. Such retaliation included attempted evictions, attempted transfers of tenants to different apartments, increased rents and the imposition of late fees. The BHA and Dan Cooper deny all of the Private Plaintiffs' allegations and contend that they have taken effective steps to address and prevent any racial discrimination at the BHA.

III. THE UNITED STATES' ALLEGATIONS

From 1994 until at least 1998, the BHA, under the direction of executive director Dan Cooper, deliberately reserved the Cedar Hills II complex for White residents and steered African-American tenants to BHA's other complexes, in violation of the Fair Housing Act. Defendants accomplished this result, the United States alleges, by violating the BHA's own policies and procedures that were designed to ensure the color-blind assignment of apartments. In addition, the United States alleges that the BHA, through Dan Cooper, made repeated statements expressing a preference to exclude African-Americans from living at Cedar Hills II. Finally, the United States claims that the Defendants harassed and intimidated African-American tenants who objected to the discriminatory practices. The BHA and Dan Cooper deny all of the United States' allegations and contend that they have taken effective steps to address and prevent any racial discrimination at the BHA.

IV. AGREEMENT

The Private Plaintiffs, the United States, Dan Cooper, and the BHA desire to avoid costly and protracted litigation and agree that the claims against the Defendants should be settled without further litigation or an evidentiary hearing. Therefore, the Private Plaintiffs, the United States, Dan Cooper, and the BHA have agreed to the entry of this Consent Order.

THEREFORE, IT IS HEREBY ORDERED:

JURISDICTION AND SCOPE

1. The Court has subject matter jurisdiction over the claims in the civil action pursuant to 28 U.S.C. §§ 1331, 1343, 1345, and 1367(a); and 42 U.S.C. §§ 3613 and 3614(a).

2. The provisions of this Consent Order apply to Dan Cooper, the City of Blakely Housing Authority, its employees, officials, officers, and agents, as well as any entity, company, or person who purchases, manages, or operates any of the BHA apartment complexes.
3. All provisions contained herein have been reviewed and approved by the U.S. Department of Housing and Urban Development (HUD).
4. This Consent Order is a settlement of disputed claims. The Consent Order is entered into without any admission by the BHA or Dan Cooper of having engaged in any discriminatory practices proscribed by the FHA or any other federal or state statute. The Private Plaintiffs and the United States shall have the right to present evidence of the BHA's non-compliance in any context or situation. The BHA and Dan Cooper shall have the right to present evidence of compliance in any context or situation.

GENERAL NONDISCRIMINATION PROVISIONS

5. The BHA, its employees, agents, and all those acting in concert or participation with them, as well as any entity, company, or person who manages or operates any of the BHA apartment complexes, are hereby enjoined from:
 - a. Refusing to rent a dwelling, refusing or failing to provide or offer information about a dwelling, or otherwise making unavailable or denying a dwelling to persons because of race or color;
 - b. Discriminating against any person in the terms, conditions, or privileges of rental or sale of a dwelling or in the provision of services or facilities in connection therewith, including engaging in any harassment or intimidation, because of race or color;

- c. Making, printing, publishing, or causing to be made, printed or published, any notice, statement, or advertisement with respect to the rental, sale, or ownership of a dwelling that indicates any preference, limitation, or discrimination on the basis of race or color; and
- d. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right protected by the FHA.

AFFIRMATIVE RELIEF

- 6. Application and Tenancy Procedures: The BHA shall comply with the procedures in Paragraphs 6 through 14 with respect to the rental of dwellings at the BHA apartment complexes to ensure compliance with the Fair Housing Act and to ensure that these dwellings are made available for rent on an equal basis and on the same terms and conditions for all persons, irrespective of race or color.
- 7. Uniform and Nondiscriminatory Procedures: Within one-hundred twenty (120) days of the entry of this Order (hereinafter “entry of this Order” shall refer to the Court’s final approval of this Order following the fairness hearing described below), the BHA shall create and submit for approval to the United States and HUD written Uniform and Nondiscriminatory Procedures for: (1) receiving, handling, processing, rejecting, and approving rental inquiries and applications made in-person, by telephone, or by other means; (2) assigning prospective tenants to new units; and (3) transferring existing tenants to different units. Within fourteen (14) days of the United States’ and HUD’s approval of

the Uniform and Nondiscriminatory Procedures, the BHA shall implement such written Uniform and Nondiscriminatory Procedures.

8. Availability Lists: As of the date of entry of this Order, the BHA shall maintain current, accurate lists of all dwellings available or expected to be available for rental within the next thirty (30) days ("Availability Lists"), which include for each dwelling:
 - a. The address, apartment number, and number of bedrooms;
 - b. Whether the apartment is vacant and, if not, the date that the apartment is scheduled to be vacant; and
 - c. Whether the apartment is available to be moved into and, if not, the date that it is expected to be available for move-in.
 - d. The Availability List shall be updated at least weekly and shall bear the date it was issued or updated at the top.

9. Visitor Log: Within one-hundred twenty (120) days of the entry of this Order, the BHA shall create and maintain a log listing all persons who inquire about renting BHA apartments, providing the date of their visit, their name, their address, their daytime and evening telephone numbers, and the date by when they wish to move. The BHA shall note on the Visitor Log the dwelling units the person was shown, whether the person was given an application, and the name of the BHA employee who attended to the visitor. The Visitor Log shall contain a space in which the visitor may voluntarily note his or her race and national origin. Should a visitor not fill in this space, the BHA shall fill it in based on the good faith observations of an employee or agent. The top portion of the Visitor Log shall contain the following disclaimer: "The following information is requested to assist the Blakely Housing Authority in complying with the federal Fair Housing Act and will be

kept confidential. Providing your race is voluntary and this information is not required in order to rent an apartment."

10. Preference Indicator: Within one-hundred twenty (120) days of the entry of this Order, the BHA shall create and submit for approval to the United States and HUD a form that carefully and fully explains to each applicant each of the "preferences" that are available under the BHA's Admissions and Continued Occupancy Policy (ACOP), and that provides a space where each applicant can indicate which preference(s) he or she believes he or she is entitled to and why he or she holds that belief. In addition, the BHA shall require applicants to sign the Preference Indicator forms stating that they understand the various preferences and have had an opportunity to apply for each one that they believe they are entitled to. The BHA shall indicate on that form whether each preference was granted, the date of that decision, and the name of the BHA employee who assisted the applicant. Also, the BHA shall indicate on that form which document(s) (or lack thereof) justify the decision to grant (or deny) each preference and attach such supporting documents. Except with respect to the "substandard housing" preference, if written records are not available to justify a particular preference, the applicant shall not be eligible for that preference. If an applicant claims a substandard housing preference, and no documentation thereof is available, a BHA employee shall visit the dwelling claimed to be substandard to make visual observations of the physical condition of the dwelling, and shall complete and sign an affidavit documenting the visit, the location, a description of the property and the observations he or she makes concerning the physical condition of the dwelling. If the BHA employee visiting such dwelling also makes the determination

whether the substandard housing preference is warranted or not, such affidavit shall include an explanation of the reasons why such preference is warranted or not, and such employee shall ensure that the requirements of this Paragraph concerning the contents of the Preference Indicator forms are also satisfied. If the BHA employee visiting such dwelling does not make such determination, the BHA employee who does so shall make the determination based on the contents of such affidavit and shall ensure that the requirements of this Paragraph concerning the contents of the Preference Indicator forms are satisfied. The Preference Indicator shall be updated for each applicant when that applicant becomes one of the top five members of the waiting list. Within fourteen (14) days of the United States' and HUD's approval of the Preference Indicator, the BHA shall implement the Preference Indicator.

11. Wait Lists: As of the date of entry of this Order, the BHA shall maintain waiting lists for each size unit that contains each applicant's name and race (based on the information filled out by the applicant on the Visitor Log or if that information is not provided on the employee's or agent's good faith observation), current address, daytime and evening telephone number, the number of intended occupants, and a description of the dwelling for which each applicant is eligible (e.g. number of bedrooms). The BHA shall also indicate, for each applicant, the time and date he or she was placed on the list and the name of the BHA employee who received the applicant's application. The rank of each applicant on the waiting list shall be determined in accordance with the BHA's ACOP. Complete, accurate and up-to-date written records shall be maintained to justify each applicant's rank

on the waiting list, the type of dwelling for which each applicant is eligible, and each “preference” given to each applicant.

12. Placement Log: Within one-hundred twenty (120) days of the entry of this Order, the BHA shall develop and maintain a log that explains which applicant(s) was considered for each vacant unit, and why each applicant was given the unit or passed over. The log shall list the time(s) and date(s) on which the BHA attempted to contact each applicant, the name of the BHA employee who attempted to make such contact, the manner of the attempted contact (phone, mail, e-mail, etc.), the result of each attempted contact, whether that applicant was offered a unit, and that applicant’s response to the offer. If the highest-ranking applicant is not offered a unit or is not offered the first unit that has become ready for rental, the BHA shall fully explain why on the Placement Log, attaching any supporting documentation.
13. Rental Applications: The BHA shall write legibly on each rental application filled out by a prospective tenant the month, day, year, and time that the BHA received the application. The BHA shall process the applications in the order in which they are received. To the extent the BHA rejects any application for housing, the BHA shall provide, either on the application or on an attachment to the application, a written explanation why the applicant was determined ineligible for tenancy, including all reasons therefor and any supporting documentation, and the name of the BHA employee who made the decision. Within three (3) days of the decision to reject an applicant, the BHA shall attempt to notify such applicant of the rejection and the reason therefor by letter sent via regular U.S. mail to the

applicant's last known address. The BHA shall permit all persons who inquire about renting a dwelling unit the opportunity to complete a written rental application.

14. Information Provided to Prospective Applicants: The BHA shall inform all persons who inquire about renting any dwelling that they will be offered the first available unit of the size they need when they become the highest-ranking applicant on the waiting list, and that if they turn down that offer, they will be treated according to ACOP regulations. The BHA shall advise all persons who inquire about renting a dwelling that they may fill out an application and, if they qualify, be put on a waiting list. The BHA shall inform all persons who inquire about renting units that they will be treated equally, irrespective of race or color.

TRAINING

15. Within one-hundred (100) days of the entry of this Order, all agents or employees of the BHA who have any responsibility related to receiving, handling, processing, or approving applications for housing; showing units to prospective tenants; assigning new tenants to units; transferring tenants; or supervising such activities; and each member of the BHA Board of Commissioners, shall attend and complete a fair housing training program, approved by the United States, at the BHA's expense. Nothing in this Order shall require members of the Board of Commissioners of other housing authorities to participate in such training.
16. The individuals trained shall verify their attendance at the training in writing.
17. The training shall include the following:

- a. Informing each individual of his or her duties and obligations under this Order as well as under the Fair Housing Act;
 - b. Furnishing to each individual a copy of this Order and the BHA's written Uniform and Non-discriminatory Procedures;
 - c. Explaining how the BHA's procedures are designed to ensure that racial discrimination does not influence the process of providing rental information to persons who make inquiries, the process of making decisions on rental applications, and the process of assigning applicants or transfers to units; and
 - d. Securing a signed certification in the form of the statement attached hereto as Attachment A, from each such individual indicating that he or she has received, read, and understood this Order and the BHA's Uniform and Nondiscriminatory Procedures identified in Paragraph 6.
18. During the period in which this Order is in effect, within forty-five (45) days of commencing an employment or agency relationship, all new agents or employees of the BHA who have responsibility for showing, renting, or managing dwellings at the BHA apartment complexes, all new agents or employees who supervise such activities, and all new members of the BHA Board of Commissioners shall be given a copy of the BHA's written Uniform and Non-discriminatory Procedures and this Consent Order and shall be given training as described in the preceding Paragraph, and shall be required to sign the statement appearing at Attachment A.

NOTIFICATION TO TENANTS

19. The BHA shall:
- a. Provide each current tenant, within thirty (30) days of the entry of this Order; each new tenant, within five (5) days of the commencement of his or her tenancy; and each prospective applicant at the time of the completion of the Visitor Log with a written notice attached hereto as Attachment B summarizing the content of this Consent Order.
 - b. Provide each current tenant within thirty (30) days of the approval of the written Uniform and Nondiscriminatory Procedures by the United States and HUD; each new tenant within five (5) days of the commencement of his or her tenancy; and each prospective applicant at the time of the completion of the Visitor Log with a written notice summarizing the BHA's Uniform and Nondiscriminatory Procedures, as well as a description of the BHA's nondiscrimination policy. The BHA shall submit this notice to the United States for approval, along with the Uniform and Nondiscriminatory Procedures, before distribution; and
 - c. Post and prominently display a full size HUD fair housing poster, HUD Form 928.1, in a conspicuous location in or near the rental office or apartment or other location used as a rental office at each of the BHA apartment complexes within thirty (30) days of the date of this Order.

TESTING

20. The United States may take steps to monitor the BHA's compliance with this Order including, but not limited to, conducting fair housing tests at any dwelling in which any

defendant, now or in the future, has a direct or indirect ownership, management, or financial interest to deter and detect future acts of unlawful housing discrimination or to determine whether the BHA is violating any part of this Order.

RECORD KEEPING

21. Throughout the duration of this Order, the BHA shall preserve and maintain all records which are the source of, contain, or relate to any information pertinent to its obligations under this Order, including, but not limited to, the following:
- a. Availability Lists;
 - b. Visitor Log;
 - c. Waiting Lists;
 - d. Rental Applications;
 - e. Leases;
 - f. Placement Logs;
 - g. Non-discriminatory procedures;
 - h. Tenant rules and regulations;
 - i. Vacancy Reports;
 - j. Rental ledgers; and
 - k. Any other information related to any inquiries regarding the availability of any dwellings at the BHA apartment complexes, and the persons who made these inquiries.

REPORTING REQUIREMENTS

22. Within one-hundred eighty (180) days of the entry of this Order, the BHA shall submit the following records to counsel for the United States:
- a. Copies of all written verifications of the training conducted pursuant to the requirements set forth above, including copies of all signed certifications of attendance;
 - b. Copies of the signed Acknowledgment Form (see Attachment A) from the BHA's employees and agents avowing that each understands this Order and the BHA's written Uniform and Nondiscriminatory Procedures;
 - c. A photograph of all the rental offices or apartments used as rental offices at the BHA apartment complexes, which verify that the Fair Housing Poster is being displayed as required by the terms enumerated above;
 - d. Representative copies of all of the documents required in Paragraphs 6 through 13, as well as any other materials prepared pursuant to the requirements of the terms enumerated above;
 - e. Copies of any existing tenant rules and regulations; and
 - f. Written verification that the Notice to Tenants has been distributed as required by the terms enumerated above.
23. Beginning six (6) months after the entry of this Order, and every six (6) months thereafter for the duration of this Order, the BHA shall deliver to counsel for the United States a report covering the preceding six months and containing the following information:

- a. To the extent that these documents have not been provided previously, copies of all written verifications of the training conducted pursuant to the requirements enumerated above, including copies of all signed certifications of attendance, to the extent these documents have not been provided previously;
 - b. To the extent that these documents have not been provided previously, copies of the signed Acknowledgment Form (see Attachment A) from the BHA's employees and agents avowing that each understands this Order and the BHA's written Uniform and Non-discriminatory Procedures;
 - c. A report showing the number of households moving into dwellings at the BHA apartment complexes during the reporting period and the number of those, if any, which included African-Americans (based upon the identification described above); the date on which each dwelling was vacated; the date on which each dwelling was cleaned and ready for occupancy; the date on which each dwelling was occupied by a new tenant; and the race of each tenant; and
 - d. Copies of all documents referenced in Paragraphs 6 through 13.
 - e. At any time after two (2) years of the entry of this Order, the BHA may petition the Court for relief from the requirement set forth in Paragraph 23(d) so long as the BHA has complied with the terms of the Consent Order in good faith. The United States reserves the right to contest this petition but shall not unreasonably withhold its consent to the BHA's petition.
24. The BHA shall also advise counsel for the United States, in writing, within thirty (30) days of receipt of any complaint, whether written, oral, or in any other form, against the BHA

or against any of its employees, agents or residential rental properties or dwellings, regarding alleged discrimination based on race or color. This notification shall include a copy of the complaint, the full details of the complaint, any action taken by the BHA in response to the complaint, the complainant's name, the complainant's address, and the complainant's telephone number. All of the pertinent documents shall also be sent to the United States. The BHA shall also advise counsel for the United States, in writing, within fifteen (15) days of the resolution of any complaint.

INSPECTIONS

25. During the term of this Order, representatives of the United States and Private Plaintiffs shall be permitted, upon providing reasonable notice to the BHA, and subject to signing a confidentiality order agreeable to all parties to protect the privacy of tenants and applicants, to inspect and copy at reasonable times any and all records related to the rental of dwellings at the BHA apartment complexes or related to the BHA's obligations under this Order. The confidentiality order shall not impair the parties' ability to effectuate any of the terms of this Consent Order or otherwise enforce any of the provisions of the Fair Housing Act.

DURATION OF ORDER

26. Except as provided in Paragraph 33(a-c) hereof with respect to the obligations of Dan Cooper only, this Consent Order shall remain in effect with respect to the BHA for four (4) years from the date of the entry of this Order. However, in the event that there is a material and substantial failure by the BHA to satisfy the terms or provisions of the Consent Order, the United States or the Private Plaintiffs may file a motion requesting that

the term of the Consent Order be extended. A motion to extend the Consent Order must be filed no later than sixty (60) days prior to the expiration of the Consent Order. At least thirty (30) days prior to filing such a motion, the parties to this Consent Order shall meet and confer in good faith in an effort to resolve any allegations of material and substantial noncompliance.

27. The Court shall retain jurisdiction for the duration of this Consent Order to enforce the terms of the Order, after which time the United States' and the Private Plaintiffs' complaints against the BHA shall be dismissed with prejudice.
28. The parties shall employ their best efforts to resolve any differences that arise in the implementation or interpretation of this Consent Order. In the event that such efforts fail, either party, after meeting-and-conferring with the other party, may bring the matter to the Court's attention for resolution.

TIME FOR PERFORMANCE

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

MONETARY RELIEF

30. Compensation for Identified Aggrieved Persons
 - a. Within fourteen (14) days from the date on which 2004 Capital Fund Program (CFP) funds are delivered to the BHA from HUD or fourteen (14) days from the date of the entry of this Order, whichever is later, the BHA shall send a certified or bank check, subject to collection, via overnight mail for \$190,000.00 (one hundred ninety thousand dollars) to attorneys for Private Plaintiffs who shall deposit such

check in an interest-bearing escrow account for the persons who allege to have been victims of the Defendants' discriminatory conduct.¹

- b. All of the expenses and costs associated with the creation of this account shall be borne by the Private Plaintiffs.
- c. Attorneys for the Private Plaintiffs shall be responsible for distributing the money in this account (which account shall also include the \$12,500 payment from Dan Cooper described in Paragraph 33(a) below) in a manner that is fair and equitable, as determined by the Class Representatives and set forth below. The distribution shall be approved by the Court pursuant to Federal Rule of Civil Procedure 23(e). This distribution shall provide lump-sum cash payments to the following Private Plaintiffs not to exceed the following amounts: Queen King (\$27,500), Sharon Johnson (\$25,000) and Evelyn Reed (\$25,000), individually and as Class Representatives; individual Private Plaintiffs: Bonita Mays (\$25,000) and the Concerned Citizens Committee of Blakely and Early County, Ga. (\$25,000); and additional Private Plaintiffs: Rhonda Branch, Dorothy Collier, Patricia Smith, Angie Glenn, Monique Lindsey, Lisa McCoy, Alma Parks (\$10,000 each). Each of these twelve Private Plaintiffs, in addition to providing substantial assistance to Private Plaintiffs' counsel and devoting substantial time and effort in prosecuting this litigation, filed complaints with HUD in or about February 1998, which, after an investigation, led to an issuance of a Charge of Discrimination by the Georgia

¹ The BHA shall make this check payable to: "The Class in Civil Action No. 1:00-CV-109-1 (WLS)."

Commission on Equal Opportunity against the BHA and Dan Cooper, upon which these litigations were based, in part.

- d. Counsel for Private Plaintiffs shall distribute part of the funds deposited in the escrow account to any member of the Class who paid excessive, duplicative, and/or unwarranted late fees to the BHA. The United States shall review the BHA's files, which shall be made available, to identify the members of the Class who are entitled to payment under this Subparagraph and shall determine how much each member of the Class shall receive. In no event shall the total of disbursements, including the administrative costs associated with the distribution of these monies, under this Subparagraph exceed \$5,000.00 (five thousand dollars). Any funds remaining after disbursement of all unwarranted late fees and payment of all administrative fees pursuant to this Subparagraph shall be disbursed *pro rata* to the Private Plaintiffs identified in Paragraph 30(c) hereof. In the event that the amount of late fees to which the United States determines members of the Class are entitled, together with administrative costs, exceeds \$5,000.00, the amount paid to each such member of the Class under this Subparagraph shall be *pro rated*.
- e. All of the payments described in this Consent Order are contingent upon the Class Representatives (Queen King, Sharon Johnson, Evelyn Reed), individually and in their representative capacities; Bonita Mays, individually; and the Concerned Citizens Committee of Blakely and Early County Georgia, individually, signing a general release of claims hereto attached as Attachment C.

EXECUTIVE DIRECTOR

31. Upon the resignation of Dan Cooper as the BHA's executive director, see infra, the BHA shall never rehire Dan Cooper or allow him to interfere with or participate, directly or indirectly, in the management or operation of the BHA.
32. Within seven (7) days of Dan Cooper's resignation, the Private Plaintiffs shall publish a notice in the *Early County News*, which notice shall inform the public about the terms of this Consent Order and Dan Cooper's resignation. The Private Plaintiffs shall bear all the costs associated with such notice.

AGREEMENT BETWEEN PLAINTIFFS AND DAN COOPER

33. The following provisions of the Consent Order settle all claims between the United States, Private Plaintiffs, and Dan Cooper arising out of or related to any facts or legal claims asserted in this case.² Notwithstanding any terms in this Order to the contrary, Dan Cooper's duties under this Order encompass only the following provisions:
 - a. Within ten (10) days of the entry of this Order, Dan Cooper shall send a certified or bank check, subject to collection, via overnight mail for \$12,500.00 (twelve thousand five-hundred dollars) to attorneys for Private Plaintiffs who shall deposit such check in the interest-bearing escrow account described in Paragraph 30(c) above for the persons who allege to have been victims of the Defendants' discriminatory conduct.³ Such funds shall be added to the amount described in

² The parties understand that this settlement does not restrict the right of the United States Department of Housing and Urban Development to enter administrative sanctions against Mr. Cooper.

³ Dan Cooper shall make this check payable to: "The Class in Civil Action No. 1:00-CV-109-1 (WLS)."

Paragraph 30(a) above and distributed in accordance with the provisions of Paragraph 30(c) above.

- b. Within thirty (30) days of the entry of this Order, Dan Cooper shall resign from his position as executive director of the BHA. Dan Cooper shall not thereafter accept employment with or participate, directly or indirectly, in the management or operation of the BHA.
- c. Upon the satisfactory completion of Dan Cooper's duties under this Paragraph 33(a-c), the United States' and the Private Plaintiffs' complaints against Dan Cooper shall be dismissed with prejudice.

AGREEMENT BETWEEN PRIVATE PLAINTIFFS AND THE BHA

- 34. The following provisions of the Consent Order settle all claims between the Private Plaintiffs and the BHA and shall not apply to the United States:
 - a. Within thirty (30) days of the entry of this Order, the BHA shall conduct a national search for a new executive director to replace Dan Cooper. Within sixty (60) days of the entry of this Order, the BHA shall select an applicant to serve as the new executive director of the BHA and shall submit such applicant's name to HUD for approval. Within one (1) day of HUD's approval, the BHA shall appoint such applicant to serve as the new executive director of the BHA. In the event that HUD does not approve the BHA's candidate, the BHA shall, within five (5) days of HUD's rejection, identify additional candidates to HUD for approval. If HUD rejects the additional candidates, the BHA shall have five (5) days after each time

HUD rejects a candidate to submit additional candidates for approval to HUD.

HUD shall not unreasonably withhold its approval.

- b. As an alternative to replacing the Executive Director as set forth in Paragraph 34(a) hereof, the BHA, subject to approval of HUD, shall be permitted to retain or contract with an entity or company to operate and manage the BHA and otherwise to carry out the functions of the Executive Director and his or her staff. In the event such an entity or company is so retained, it shall be subject to the terms of this Order pursuant to Paragraph 2 hereof.
- c. Within one (1) year of the entry of this Order, the BHA shall conduct three seminars for BHA tenants on BHA property that explain tenants' fair housing rights and their rights and responsibilities under BHA rental leases.
- d. Within sixty (60) days of the entry of this Order, the BHA shall distribute a copy of the HUD booklet entitled Fair Housing Is Your Right!, HUD Form 903.1, to each current tenant of the BHA.
- e. From the date of entry of this Order, the BHA shall forgive past due balances of former BHA tenants who are Private Plaintiffs and wish to move back to the BHA, and shall expunge from the BHA files of such tenants, to the extent permitted by law and HUD regulations, any past criminal, disciplinary, financial or other negative information that might otherwise result in such individual being denied an apartment at the BHA.

- f. From the date of entry of this Order, the BHA shall not charge any tenants for the costs associated with maintenance to BHA apartments arising out of routine wear and tear or complex-wide repairs.
- g. From the date of entry of this Order, the BHA shall charge tenants a late fee on any past-due balance of ten (10) percent of the unpaid balance of the original charge or assessment, but in no case shall any initial late fee be less than \$10 or more than \$25. Subsequent fees for bills that remain unpaid for longer periods shall not exceed 10 percent of the unpaid balance. For example, a tenant who has a rent of \$50 a month and is late paying that rent shall be charged \$10 for the first month and \$5 for any subsequent months that that particular month's rent remains unpaid. Under no circumstances shall these late fees be cumulative.
- h. The BHA shall repair, remove, or replace existing playground equipment on BHA property and shall install playground equipment at other BHA sites to the extent such equipment is desired by BHA tenants and within current or future BHA budgets.
- i. The BHA may charge tenants a refundable deposit to rent its community room but in no event shall such deposit exceed \$25.00. The deposit shall be refunded to the tenant so long as the community room is left in the same condition in which it was rented. Nothing in this provision shall prevent the BHA from seeking to recover the costs associated with damage done to the community room in excess of the security deposit.

- j. Neither the BHA's executive director nor any other BHA employee shall be permitted to perform security patrols or policing functions on BHA property. This provision shall in no way hinder or limit the BHA's ability to hire licensed or certified security personnel to perform such functions.
- k. Within sixty (60) days of the appointment of a new executive director or the retention of an independent company or entity to manage the BHA as provided in Paragraph 34 hereof, and annually thereafter, the BHA shall publicize and conduct an election among the BHA tenants, the winner of which shall serve as a non-voting advisor to the BHA's Board of Commissioners.
- l. From the date of entry of this Order, the BHA Board of Commissioners shall meet with BHA tenants quarterly to discuss any issues tenants may have regarding their housing.
- m. Within fourteen (14) days from the date on which 2004 Capital Fund Program (CFP) funds are delivered to the BHA from HUD, the BHA shall send a certified or bank check, subject to collection, via overnight mail for \$50,000 (fifty thousand dollars) to attorneys for the Private Plaintiffs to cover attorneys' fees and costs, which fees shall be divided amongst attorneys for Private Plaintiffs (Proskauer Rose LLP, the Lawyers' Committee For Civil Rights Under Law, Laverne Lewis-Gaskins, Esq. and Betty Walker-Lanier, Esq.) in a matter that is fair and equitable, as determined by said attorneys, and approved by the Court. All other attorney fees and costs shall be borne by the parties.

n. All payments to any Private Plaintiff under this Consent Order are compensation for injury suffered. Receipt of any payment pursuant to this Consent Order shall not affect any Private Plaintiff's eligibility for public housing or any other public benefits under federal, state or local laws, rules and regulations, nor will such payments be treated as income or assets for purposes of determining rental payments to the BHA under applicable laws, rules and regulations.

FAIRNESS HEARING

35. Approximately one hundred twenty (120) days following preliminary approval of this Consent Order, the Court will hold a fairness hearing for the purpose of determining whether to finally approve this Consent Order. The hearing date, time, and location will be provided in the notices described below, and members of the Class may appear at the fairness hearing and object to final approval of this Consent Order.
36. Within thirty (30) days after the Court's preliminary approval of this Consent Order, the Private Plaintiffs will provide notice to the Class of the date, time and location of the Fairness Hearing, which notice or notices shall also include a description of the principal terms and conditions of this Consent Order (the "Notice(s)"). The form and content of the Notice(s) shall be substantially in the form annexed hereto as Attachment D (the "Personal Notice") and Attachment E (the "Publication Notice") and shall be subject to the approval of the United States, the BHA, Dan Cooper and the Court. Private Plaintiffs shall provide the Notice to members of the Class who currently reside at the BHA by sending a copy by first class mail to each BHA household, provided that the BHA provides Private Plaintiffs' counsel with a list of the names and addresses of the head of

household at each BHA apartment unit. Private Plaintiffs shall provide notice to all other members of the Class by causing the Publication Notice to be published in the *Early County News* on three consecutive weeks. Such published Notice shall be in the form of a quarter-page (or larger) advertisement. All costs associated with preparing, reproducing and distributing the Notices as provided hereinabove shall be borne by Private Plaintiffs.. The BHA, at its expense, shall post the Personal Notice and the Publication Notice in conspicuous locations in or near the rental office or apartment or other location used as a rental office at each of the BHA apartment complexes.

37. Nothing in this Consent Order shall prohibit counsel for any party from notifying members of the Class of the proposed settlement at their own expense, whether by placing additional advertisements, conducting additional outreach efforts, or otherwise; provided, however, that such counsel will not solicit members of the Class to request that they be excluded from the Class.

WITHDRAWAL

38. Within twenty (20) days after the date set by the Court as the last date upon which a request to opt out of the class must be postmarked (as indicated in the Personal Notice), Private Plaintiffs shall file with the Court and serve (by fax and overnight mail) counsel for the BHA, Dan Cooper and the United States a list of all persons requesting to opt out of the Class. Within fourteen (14) days of the date said list is served, the BHA or Dan Cooper may in their discretion withdraw from this Order and any related agreements by filing with the Court and serving (by fax and overnight mail) written notice, indicating

briefly the reasons therefor; provided, however, that such withdrawal is permitted only if fifty (50) or more valid members of the Class have timely submitted a request to opt out.

SIGNATURES OF THE PARTIES

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

Respectfully submitted,

FRANK MAXWELL WOOD
United States Attorney

R. ALEXANDER ACOSTA
Assistant Attorney General
Civil Rights Division

/s/ _____
Steven H. Rosenbaum, Chief
Donna Murphy, Deputy Chief
Allen W. Levy
Alberto J. Ruisanchez
Trial Attorneys
Housing and Civil Enforcement Section (G Street)
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
(202) 514-2188
(202) 514-1689 (fax)

**ATTORNEYS FOR PLAINTIFF UNITED
STATES OF AMERICA**

PROSKAUER ROSE LLP

BY: /s/ _____

Nancy Kilson (admitted *pro hac vice*;
NY State Bar No. 1638501)
John R. Braatz (admitted *pro hac vice*;
NY State Bar No. 2733335)
1585 Broadway
New York, NY 10036-8299
(212) 969-3000
(212) 969-2900 (fax)

LAWYERS' COMMITTEE FOR
CIVIL RIGHTS UNDER LAW
1401 New York Avenue, N.W., Suite 400
Washington, DC 20005
(202) 662-8600

Betty Walker-Lanier (Ga. State Bar No. 731225)
223 2nd Street East
P.O. Box 2128
Tifton, GA 31793
(229) 382-7470

ATTORNEYS FOR PRIVATE PLAINTIFFS

/s/ _____
Robert B. Langstaff, Jr. (GA Bar No. 436705)
1500 Dawson Road
Albany, GA 31702-1306
(229) 436-5725
(229) 436-5729 (fax)

**ATTORNEY FOR DEFENDANTS CITY OF
BLAKELY HOUSING AUTHORITY AND
DAN COOPER**