

**SETTLEMENT AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
J & R ASSOCIATES**

Introduction

1. This Settlement Agreement (“Agreement”) is entered into by and between the United States of America, through the Department of Justice (“United States”) and J & R Associates (collectively “the Parties”), through their authorized representatives.

2. The Parties enter into this Agreement to resolve certain claims described below that the United States would have brought against J & R Associates for race and national origin discrimination under the Fair Housing Act, 42 U.S.C. §3604 (a), (b), (c) and (d), in the United States District Court for the District of Massachusetts.

3. On May 4, 2015, the Parties resolved a separate Fair Housing Act lawsuit brought by the United States alleging that J & R Associates employed rental practices that discriminated on the basis of familial status, which allegations J & R Associates denied. *United States v. J & R Associates*, Civil Action No. 15-cv-11748 (D. Mass.). The terms of the court-enforceable Consent Order entered in that case remain operative, and are scheduled to expire May 4, 2018.

4. The Attorney General has jurisdiction to file suit under the Fair Housing Act whenever he has reason to believe that: (1) any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights under the FHA; or (2) any group of persons has been denied any of the rights granted by the FHA and such denial raises an issue of general public importance. 42 U.S.C. §3614(a). The Attorney General has, in this matter, authorized the United States to file suit against J & R Associates in the United States

District Court for the District of Massachusetts alleging national origin and race discrimination, in violation of certain provisions of the Fair Housing Act, 42 U.S.C. §3604 (a), (b), (c) and (d).

5. In consideration of, and consistent with, the terms of this Agreement, the United States Department of Justice agrees to refrain from filing a civil lawsuit against J & R Associates under the Fair Housing Act and arising out of the factual allegations described herein, except as provided in the subsection titled “Implementation and Enforcement.” The parties agree and acknowledge that the consideration is adequate and sufficient.

6. The entry of this Agreement is a compromise of disputed claims and is not an admission by J & R Associates of any liability, wrongdoing, or noncompliance with the provisions of the Fair Housing Act.

Recitals

7. J & R Associates is incorporated in the Commonwealth of Massachusetts and its principal office address is 65 East Washington Street North Attleboro, Massachusetts 02760.

8. J & R Associates owns and operates Royal Park Apartments, an eight-building multi-family residential complex with 224 units located at 65 East Washington Street North Attleboro, Massachusetts 02760.

9. Royal Park Apartments is a “dwelling” within the meaning of 42 U.S.C. § 3602(b).

10. J & R Associates employs rental agents who, at all times pertinent to the United States’ claims, were authorized to act on its behalf for the purpose of renting, showing, and/or managing the units at Royal Park Apartments.

11. The United States conducted an investigation and determined that J & R Associates steered applicants of South Asian descent to buildings 7 and 8 in its apartment complex from at least 2009 to 2014, in violation of the Fair Housing Act, 42 U.S.C. §3604 (a), (b), (c) and (d), and that such conduct constitutes a pattern or practice of discrimination on the basis of national origin or race and a denial of rights to persons protected by the Fair Housing Act, raising an issue of public importance under 42 U.S.C. § 3614.

12. J & R Associates states that it did not steer applicants of South Asian descent to buildings 7 and 8 in its apartment complex at any time as set forth in paragraph 11 above, and did not violate the provisions of the Fair Housing Act or conduct any wrongdoing under the Fair Housing Act.

13. The United States and J & R Associates have agreed that in order to avoid protracted and costly litigation, these matters in dispute should be resolved without the filing of a civil lawsuit against J & R Associates.

Terms and Conditions

Prohibiting Discrimination under the FHA

14. J & R Associates and all other persons in active concert or participation with it, agree to comply with the Fair Housing Act, including not discriminating on the basis of race or national origin, as provided in 42 U.S.C. §3604 (a), (b), (c) and (d).

15. J & R Associates will not retaliate against, or coerce in any way, any person who exercises his or her rights under this Agreement.

Nondiscrimination Policy and Notice to Public

16. The Parties incorporate herein by reference the non-discrimination policy provisions and notices to public of such policies contained in paragraphs 14-15 of the Consent Order issued on May 4, 2015, in *United States v. J & R Associates*, Civil Action No. 15-cv-11748, and filed in the United States District Court for the District of Massachusetts. The Non-Discrimination Policy of J & R Associates is attached hereto as Appendix A.

Training

17. Within 15 days of the entry of this Agreement, J & R Associates shall provide a copy of this Agreement to all of its agents and employees involved in showing, renting, or managing, any dwelling unit at Royal Park Apartments. J & R Associates shall secure a signed statement from each such agent or employee acknowledging that he or she has received and read the Agreement and the Nondiscrimination Policy, has had the opportunity to have questions about the Agreement and Nondiscrimination Policy answered, and agrees to abide by the relevant provisions of the Agreement and the Policy. This statement shall be in the form of Appendix B.

18. During the duration of this Agreement, within 30 days after each new agent or employee becomes involved in showing, renting, or managing units at the Royal Park Apartments, J & R Associates shall provide a copy of this Agreement and the Nondiscrimination Policy to each such agent or employee and secure a signed statement from each agent or employee acknowledging that he or she has received and read the Agreement and the Nondiscrimination Policy (Appendix A), has had the opportunity to have questions about the Agreement and Nondiscrimination Policy answered, and agrees to abide by the relevant

provisions of the Agreement and the Nondiscrimination Policy. This statement shall be in the form of Appendix B.

19. During the duration of this Agreement, new agents or employees responsible for showing, renting, or managing dwelling units and any new person or owner who supervises these activities at the Royal Park Apartments must receive in-person training described in this paragraph within 30 days of beginning their employment or agency. The in-person training shall be training on the Fair Housing Act, with specific emphasis on discrimination on the basis of national origin and race. The training shall be conducted by an independent, qualified third party, approved in advance by the United States, and shall last at least two hours. Any expenses associated with this training shall be borne by the J & R Associates. Each individual who receives the training shall execute the Certificate of Training (Appendix C) and Statement Affirming Receipt of Agreement and Nondiscrimination Policy (Appendix B).

20. At a minimum, the training required in the preceding paragraph shall consist of instruction on the requirements of all applicable federal and state housing discrimination laws and a question and answer session for the purpose of reviewing the foregoing areas with an emphasis on national origin and race discrimination.

Nondiscriminatory Standards and Procedures

21. The Parties incorporate herein by reference the non-discriminatory standards and procedures referenced in paragraphs 21-22 of the Consent Order issued on May 4, 2015, in *United States v. J & R Associates*, Civil Action No. 15-cv-11748, filed in the United States District Court for the District of Massachusetts.

Compliance Testing

22. The United States may take steps to monitor compliance with this Agreement including, but not limited to, conducting fair housing tests at any office(s) or location(s) at which J & R Associates conducts rental activities.

23. J & R Associates agrees to cooperate with the United States in any review of compliance with this Agreement. Upon reasonable notice, J & R Associates shall permit counsel for the United States to inspect and copy all non-privileged records pertinent to this Agreement.

Reporting and Document Retention Requirements

24. The Parties adopt the same terms regarding the contents of the reporting and document retention requirements for this Agreement that are contained in paragraphs 24-26 of the Consent Order issued May 4, 2015 in *United States v. J & R Associates*, Civil Action No. 15-cv-11748, filed in the United States District Court for the District of Massachusetts. The parties agree that three reports are due under this Agreement: (i) the first report is due ninety days (90) after the execution of this Agreement; (ii) the second report is due sixty days (60) thereafter; and, (iii) the third report is due thirty (30) days before the expiration of this Agreement.

25. During the term of this Agreement, J & R Associates will notify the United States of any written complaint, lawsuit, charge, or grievance alleging discrimination on the basis of race, national origin, and all other bases under the FHA. Such notification must be provided in writing within fifteen (15) days of when J & R Associates has received written notice of the allegation and will include, at a minimum, the nature of the allegation, the name of the individual bringing the allegation, and any documentation possessed by J & R Associates relevant to the allegation.

Monetary Damages and Settlement Fund for Aggrieved Persons

26. Within 15 days of the entry of this Agreement, J & R Associates shall deposit in an interest-bearing escrow account the total sum of \$70,000.00 (Seventy thousand dollars) for the purpose of compensating persons identified by the United States to be aggrieved persons (hereinafter “aggrieved persons”). This money shall be referred to as “the Settlement Fund.” Within five days of the establishment of this Fund, J & R Associates shall submit proof to the United States that this account has been established and the funds deposited. Any interest accruing to the Settlement Fund shall become a part of the Settlement Fund and be utilized as set forth herein.

27. J & R Associates shall be solely responsible for any taxes assessed or owed on any interest earned on money deposited pursuant to Paragraph 26 above.

28. To the extent that such records have not already been produced to the United States, J & R Associates shall produce any rental/tenancy records, or any other records in the possession, custody, or control of J & R Associates, its agents or employees, upon notice to counsel for J & R Associates, that the United States believes to be useful in identifying persons who may be entitled to relief under this Agreement.

29. Nothing in this Agreement shall preclude the United States from undertaking its own efforts to locate and provide notice to potential aggrieved persons. .

30. Within ninety (90) days of the entry of this Agreement, the United States shall identify all aggrieved persons, make a determination of an appropriate amount of damages that should be paid to each such person, and notify J & R Associates. J & R Associates shall have a right, within ten (10) days of such notice, to challenge the identification of any person identified

by the United States as aggrieved by providing documentary proof to the United States that they were not victims of steering. Within ten (10) days of receipt of such documentary proof, the United States shall then consider the documentary proof, decide in good faith whether to change its identification, and notify J & R Associates of its decision. Within ten (10) days of such notice of the original identification (if not challenged by J & R Associates) or within five days (5) days of notice of the decision of the United States upon a challenge (if one is made), J & R Associates shall deliver to counsel for the United States, by overnight mail,¹ checks payable to the aggrieved persons in the amounts specified by the United States, provided that the United States shall not deliver payment to an aggrieved person pursuant to this paragraph before the aggrieved person has executed and provided to counsel for the United States a written release (in the form of Appendix D) of all claims, legal or equitable, that he or she might have against J & R Associates.

31 In no event shall the aggregate of all such checks exceed the sum of the Settlement Fund plus accrued interest.

32. Based on the information exchanged by the parties to date, the parties agree that the entire Settlement Fund will be distributed to the aggrieved persons identified by the United States and the parties expect that there will be no monies remaining in the Settlement Fund after such distribution.

33. The parties agree that the United States will identify the aggrieved persons. and the amount each has received by way of a supplement to this Agreement, which shall be

¹ The overnight mail enclosing the checks shall be addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-36-321, United States Department of Justice, 1800 G Street, NW, Washington, D.C. 20006.

incorporated by reference and made part hereof, and which shall be attached hereto no later than ten (10) days from the date the last aggrieved person has executed his or her release.

Acquisition or Transfer of Interest in Dwellings

34. If at any time during the term of this Agreement, J & R Associates maintains that its obligations under this Agreement have terminated or changed because it has sold or transferred all or any portion of Royal Park Apartments to a bona-fide third party purchaser in an arms-length transaction, the J & R Associates shall inform the United States within thirty (30) days of such transaction and provide the date of the sale or transfer, copies of the sale or transfer documents, and the name(s) and contact information for the subsequent purchaser.

35. If any transfer of the interest of J & R Associates in the Royal Park Apartments is not an arm's-length transaction, J & R Associates and the new owner(s) shall remain jointly and severally liable for any violations of this Agreement for its duration.

Implementation and Enforcement

36. The Parties shall endeavor in good faith to resolve informally any differences regarding interpretation of or compliance with this Agreement prior to initiating court action.

37. In the event the United States believes that there has been a failure by J & R Associates, whether willful or otherwise, to perform in a timely manner any act required by this Agreement or otherwise to act in conformance with any provision thereof, the United States shall notify J & R Associates in writing of its concerns. J & R Associates shall have fifteen (15) days from the date of the United States' notification to cure the breach.

38. If the Parties are unable to reach a resolution within 15 days, the United States may file a lawsuit for breach of this Agreement, or any provision thereof, in the United States

District Court for the District of Massachusetts. In any such action, J & R Associates consents to and agrees not to contest the exercise of personal jurisdiction by the United States District Court for the District of Massachusetts. J & R Associates further acknowledges that venue in the United States District Court for the District of Massachusetts is appropriate and agrees not to raise any challenge on this basis.

39. The commencement of a lawsuit by the United States pursuant to paragraph 38, does not constitute, and shall not be construed as, a waiver of sovereign immunity or any of other available jurisdictional or legal defense, including any counterclaims.

40. In the event the United States files a civil action as contemplated by paragraph 38 above to remedy breach of this Agreement, the United States may seek, and the Court may grant as relief, the following: 1) an order mandating specific performance of any term or provision in this Agreement, without regard to whether monetary relief would be adequate; 2) an award of reasonable attorney's fees and costs incurred in bringing an action to remedy breach of this Agreement; and 3) any additional relief that may be authorized in law or in equity. If such a civil action is filed, J & R Associates expressly agrees not to count the time during which this Agreement is in place, or use the terms or existence of this Agreement, to plead, argue or otherwise raise any defenses under theories of claim preclusion, issue preclusion, statute of limitations, estoppel, laches, or similar defenses.

41. Failure by the United States to enforce any provision of this Agreement shall not operate as a waiver of the United States' right or ability to enforce any other provision of this Agreement.

Release

42. This Agreement fully and finally resolves any and all of the Fair Housing Act allegations raised in paragraph [11] and investigated by United States. It is not intended to remedy any other potential violations of the FHA or any other federal law by J&R Associates. Nothing in this Release shall affect the right of the United States to enforce the obligations of J & R Associates under the Consent Order or under this Agreement.

Duration, Execution and Other Terms

43. The effective date of this Agreement is the date of the last signatory to the Agreement.

44. The duration of this Agreement shall be one (1) year from the effective date.

45. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parties, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be part of this Agreement.

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

47. This Agreement is binding on the Parties and their successors, heirs and assigns.

48. This Agreement is governed by and shall be interpreted under the laws of the United States.

49. For purposes of construing this Agreement it shall be deemed to have been drafted by all Parties to this Agreement and shall not therefore, be construed against any Party for that reason in any subsequent dispute.

50. Except where this Agreement expressly conditions or predicates performance of a duty or obligation upon the performance of a duty or obligation by another party, the performance of one party's duties or obligations under this Agreement shall not be discharged or excused by the actual or alleged breach of the duties and obligations by another party.

51. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

52. This Agreement is a public document. The parties agree and consent to the United States' disclosure of this Agreement and information concerning this Agreement to the public.

53. This Agreement constitutes the complete agreement of the parties. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provision herein or in any other proceeding.

54. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion. The Parties agree that each Party and its representative have acted consistent with the duty of good faith and fair dealing.

55. The Parties agree that they will defend this Agreement against any challenge by any third party. In the event that this Agreement or any of its terms are challenged by a third party in a court other than the United States District Court for the District of Massachusetts, the parties agree that they will seek removal and/or transfer to the District of Massachusetts.

56. This Agreement may be modified only with the written consent of the parties. Any modification must be in writing and signed by the parties through their authorized representatives.

Termination of Litigation Hold

57. The Parties agree that, as of the effective date of this Agreement, litigation is “not reasonably foreseeable” concerning the matters described in this Agreement. To the extent any party has previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above, that Party is no longer required to maintain such litigation hold.

58. The preceding paragraph does not relieve the J & R Associates of any record keeping responsibilities imposed by the terms of this Agreement, or any other obligations under this Agreement.

Costs of Litigation

59. Except as stated in Paragraph 40 above, each party shall bear its own legal or other costs incurred in connection with this matter, including the preparation, negotiation and performance of this Agreement.

For the United States

DATED: July 6, 2017

WILLIAM D. WEINREB
Acting United States Attorney
District of Massachusetts

T. E. WHEELER, II
Acting Assistant Attorney General
Civil Rights Division

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For J & R Associates

DATED: July 5, 2017

/s/ Bruce E. Falby
BRUCE E. FALBY
As authorized representative pursuant to power of attorney
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APPENDIX A

NONDISCRIMINATION POLICY

It is the policy of J & R Associates to comply with Title VIII of the Civil Rights Act of 1968, as amended, commonly known as the Fair Housing Act, by ensuring that apartments are available to all persons without regard to race, color, religion, national origin, disability, familial status (having children under the age of 18), or sex. This policy means that, among other things, J & R Associates, and all its agents and employees with the responsibility for renting, showing, or managing any dwelling units must not discriminate in any aspect of the rental of dwellings against qualified applicants or tenants. Specifically, they may not:

- A. Refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, disability, familial status, or sex;
- B. Discriminate against any person in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, disability, familial status, or sex;
- C. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, disability, familial status, or sex; or,
- D. Represent to persons because of race, color, religion, national origin, disability, familial status, or sex that any dwelling is not available for inspection or rental when such dwelling is in fact so available.

Any agent or employee who fails to comply with this Nondiscrimination Policy will be subject to appropriate disciplinary action. Any action taken by an agent or employee that results in unequal service to, treatment of, or behavior toward tenants or actual or potential applicants on the basis of race, color, religion, national origin, disability, familial status, or sex may constitute a violation of state and federal fair housing laws. Any tenant or applicant who believes that any of the above policies have been violated by any owner, agent, or employee may contact the U.S. Department of Housing and Urban Development at 1-888-799-2085, or the U.S. Department of Justice at 1-800-896-7743 or 202-514-4713.

APPENDIX B

**ACKNOWLEDGMENT OF RECEIPT OF AGREEMENT AND
NONDISCRIMINATION POLICY**

I acknowledge that on _____, 20__, I was provided copies of the Settlement Agreement, and the Nondiscrimination Policy adopted by J & R Associates 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/Position

Date

APPENDIX C

EMPLOYEE TRAINING ACKNOWLEDGMENT

I acknowledge that on _____, 20____, I received _____
minutes of in-person training on the requirements of the Fair Housing Act.

Signature

Print Name

Job Title/Position

Date

APPENDIX D

FULL AND FINAL RELEASE OF CLAIMS

In consideration for the Parties' agreement to the terms of the Settlement Agreement they entered into dated _____, and in consideration for the payment of \$ [_____] I, _____, do hereby fully release and forever discharge J & R Associates, along with its insurers, co-insurers, reinsurers, attorneys, related companies, principals, predecessors, successors, assigns, affiliates, partners, directors, officers, agents, employers, shareholders, subsidiaries, employees, former employees, independent contractors, heirs, executors, and administrators and any persons acting under the J & R Associates' respective direction or control from any and all fair housing claims set forth or related to the allegations and facts at issue referenced by the parties in the Settlement Agreement that pertain to race or national origin discrimination, or in any way related to that matter, and any other claims arising from alleged housing discrimination that I may have had against any of them for any of the J & R Associates' actions or statements related to those claims through the date of this Release.

I understand and acknowledge that the payment made by J & R Associates hereunder does not constitute, and shall not be construed as, an admission of any kind, and that J & R Associates expressly denied liability.

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

Executed this _____ day of _____, 2017.

[Signature]

[Print Name]