

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
HUBBARD PROPERTIES, INC., )  
HUNTER’S POINTE, LLC, )  
and BETHANY PETZ, )  
)  
Defendants. )  
\_\_\_\_\_ )

CIVIL ACTION NO. 19-313-WS-B

**CONSENT ORDER**

This matter comes before the Court on the Parties’ Joint Motion for Entry of Proposed Consent Order (doc. 10). For cause shown, the Joint Motion is **granted** as follows:

**I. INTRODUCTION**

1. Plaintiff United States of America filed this action to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619 (“the Act” or “the FHA”).
2. The United States filed this action on June 24, 2019, on behalf of Curtis Williams (“Mr. Williams”) in accordance with 42 U.S.C. § 3612(o).
3. The United States’ Complaint alleges that, at all relevant times, Defendant Hunter’s Pointe, LLC (“Hunter’s Pointe”) owned Hunter’s Pointe Apartments (“the Subject Property”), a 201-unit apartment complex located at 3205 Lloyds Lane, Mobile, Alabama. The Complaint further alleges that Defendant Hubbard Properties, Inc. (“Hubbard Properties”) operated and managed the Subject Property on behalf of Hunter’s Pointe and that Hubbard Properties employed Defendant Bethany Petz (“Ms. Petz”) as

the property manager of the Subject Property. Hereinafter, Hunter's Pointe and Hubbard Properties shall be referred to collectively as "the Corporate Defendants."

4. The Complaint alleges that the Defendants discriminated against Mr. Williams because of his disability by refusing to transfer him to a ground floor unit at the Subject Property, in violation of 42 U.S.C. § 3604(f)(1), (f)(2), and (f)(3)(B).
5. The parties agree that the claims against the Defendants should be resolved without further proceedings or a trial. This Consent Order resolves the claims in the Complaint against the Defendants.

**II. GENERAL INJUNCTION**

6. The Defendants, their agents, their employees, and all others in active concert or participation with them, are hereby enjoined from:
  - a. Discriminating in the rental of, or otherwise making unavailable or denying, a dwelling to any renter because of a disability, in violation of 42 U.S.C. § 3604(f)(1);
  - b. Discriminating against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of a disability, in violation of 42 U.S.C. § 3604(f)(2); and
  - c. Refusing to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

**III. MANDATORY EDUCATION AND TRAINING**

7. Within 60 days of the entry of this Consent Order, the Defendants, including all employees and agents of the Corporate Defendants who have management or administrative duties with respect to the rental of housing owned and/or managed by the Corporate Defendants, shall attend, at the Defendants' expense, a training program regarding the Fair Housing Act, including in particular the FHA's prohibitions against disability discrimination. The training shall be conducted by a qualified third party, approved in advance by the United States, and unconnected to the Defendants, their employees, agents, or counsel.
8. Any new employees hired to work with or for the Corporate Defendants who will perform management or administrative duties with respect to the rental of housing owned and/or managed by the Corporate Defendants will attend fair housing training within 30 days of the start of their employment. A web based fair housing training that has been pre-approved by the United States and that is otherwise consistent with the requirements of Paragraph 7 is sufficient to meet this training requirement. The Corporate Defendants shall bear the costs associated with this training.
9. All persons required under Paragraph 7 to attend training shall, within 14 days of completing the training, certify that they have participated in the educational training program, and that they understand and acknowledge their duties and responsibilities under this Consent Order and the federal Fair Housing Act. Such certification shall take the form of Appendix A to this Consent Order. Similarly, all persons required under Paragraph 8 to attend training shall, within 14 days of completing the training, certify that they have participated in the educational training program, and that they understand and acknowledge their duties and responsibilities under this Consent Order and the federal

Fair Housing Act. Such certification shall take the form of Appendix A to this Consent Order if they received such training in-person, or Appendix B if they completed a pre-approved web based training.

**IV. NONDISCRIMINATION POLICY**

10. Within 30 days of the entry of this Consent Order, the Corporate Defendants shall post and prominently display within their rental offices and in a prominent location on the premises of their rental properties a sign no smaller than 11 inches by 14 inches indicating that all units are available for sale or rental on a nondiscriminatory basis. An 11-by-14 inch poster that comports with 24 C.F.R. Part 110 will satisfy this requirement. The Corporate Defendants may use HUD Form 928, copies of which are available free of charge by calling HUD directly at 800-669-9777, or online at <https://www.hud.gov/sites/documents/928.1.PDF>.

11. The Corporate Defendants shall ensure that any new advertising for the rental units that they own and/or manage in newspapers, in telephone directories, on radio, on television, on the internet, or in other media, and any signs, pamphlets, brochures, rental applications, leases, and other promotional literature includes a fair housing logo, the phrase "Equal Housing Opportunity Provider," and/or the following sentences:

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

**V. REASONABLE ACCOMMODATION POLICY**

12. Within 30 days of the entry of this Consent Order, the Corporate Defendants shall establish a specific written policy, the "Reasonable Accommodation Policy for Persons with Disabilities," for receiving and handling requests for reasonable accommodations

made by residents or prospective residents with disabilities at rental housing owned and/or managed by the Corporate Defendants. This policy shall comply with the requirements of 42 U.S.C. §§ 3601-3619 and all other applicable federal and state laws and shall include the following provisions:

- a. A description of where and how requests for accommodations in rules, policies, practices, or services are to be accepted and processed;
- b. Each request for a reasonable accommodation and the response thereto shall be fully documented by the Corporate Defendants, including copies of any written requests or decisions;
- c. All requests for a reasonable accommodation shall be acknowledged, in writing, within 14 days of the Corporate Defendants' receipt of an oral or written request;
- d. Persons requesting a reasonable accommodation shall be notified in writing of the decision regarding their request within 30 days of the receipt of that request, including an explanation if the request is denied; and
- e. The Corporate Defendants shall not impose any additional fees or costs, or otherwise retaliate against any person who has exercised his/her rights under the Fair Housing Act to make one or more reasonable accommodation requests and, if applicable, to receive a reasonable accommodation.

13. Within 30 days of the entry of this Consent Order, the Corporate Defendants shall provide a draft of the Reasonable Accommodation Policy for Persons with Disabilities to counsel for the United States for approval. The United States shall respond to the Corporate Defendants' proposed policy within 30 days of its receipt. If the United States objects to any part of the Corporate Defendants' proposal, the parties shall have 30 days

from the date the United States gives notice of its objection to resolve their disagreement. If they are unable to do so, the parties shall submit the dispute to the Court for resolution. The Corporate Defendants shall implement the Reasonable Accommodation Policy for Persons with Disabilities at all rental housing owned and/or managed by the Corporate Defendants within 14 days of approval by the United States or determination by the Court. The Corporate Defendants may amend the Policy once it has been implemented only after receiving approval from the United States, or, if the United States denies such approval, upon Order of the Court.

14. The Corporate Defendants shall keep written records of each request for a reasonable accommodation. These records shall include: (a) the name, address, and telephone number of the person making the request; (b) the date on which the request was received; (c) the nature of the request; (d) whether the request was granted or denied; and (e) if the request was denied, the reason(s) for the denial.

#### **VI. REPORTING AND RECORD KEEPING**

15. The Corporate Defendants shall notify and provide documentation to the United States<sup>1</sup> of the following events within 14 days of their occurrence:
  - a. The adoption, in accordance with Part V of this Consent Order, of the Reasonable Accommodation Policy for Persons with Disabilities;
  - b. The implementation of any change to the Reasonable Accommodation Policy for Persons with Disabilities;

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<sup>1</sup> All documents, notices, communications, and other written materials required by this Consent Order to be sent to the United States shall be made by email and/or overnight delivery by private carrier (*i.e.*, not by the U.S. Postal Service). Unless the United States informs the Defendant, in writing, of an alternative addressee, submissions shall be addressed as follows: **Overnight Delivery:** Chief, Housing & Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice, 4 Constitution Square, 150 M St. NE, 8th Floor, Washington, DC, 20002, Attn: DJ 175-3-123; **Email:** Colin.Stroud@usdoj.gov.

- c. The completion by any person of an educational program required under Paragraphs 7-8 of this Consent Order by forwarding a completed certification in the form of Appendix A or Appendix B to this Consent Order;
  - d. The posting of the Nondiscrimination Policy in accordance with Part IV of this Consent Order;
  - e. The denial of a request for a reasonable accommodation by a resident or prospective resident of housing owned and/or managed by the Corporate Defendants, including the requester's name, address, and telephone number, the date of the request, the details of the request, and the written explanation provided to the requester for denying the request; and
  - f. The making of any written or oral complaint against the Defendants regarding discrimination on the basis of disability, including a copy of the written complaint itself or a written summary of an oral complaint, and the name, address, and telephone number of the complainant. The Defendants shall also promptly provide the United States with information concerning resolution of the complaint.
16. The Corporate Defendants shall be responsible for the preparation of annual compliance reports beginning on the anniversary of the entry of this Consent Order and continuing every year thereafter, except that the final report shall be submitted 60 days prior to the expiration of this Consent Order. The compliance report shall include: (a) copies of any advertising for rental housing owned and/or managed by the Corporate Defendants in newspapers, in telephone directories, on radio, on television, on the internet, or in other media published since the effective date of this Consent Order or the submission of the

prior compliance report; and (b) a list of all reasonable accommodation requests submitted to the Corporate Defendants by residents or prospective residents since the effective date of this Agreement or the submission of the prior compliance report, including the name and contact information of the requester, the property at which the request was made, the date of the request, the nature of the request, and whether the request was granted or denied.

17. While this Consent Order remains in effect, the Defendants shall preserve all records relating to their obligations under this Consent Order. Representatives of the United States shall be permitted, upon providing reasonable notice to the Defendants, to inspect and copy at reasonable times any and all records related to the Defendants' obligations under this Consent Order.

**VII. RELIEF FOR CURTIS WILLIAMS**

18. Within 14 days of the entry of this Consent Order, the Defendants shall pay the total sum of \$40,000 in monetary damages to Curtis Williams by delivering to counsel for the United States a check payable to Mr. Williams.
19. As a prerequisite to receiving payment pursuant to Paragraph 18, Mr. Williams shall execute and deliver to counsel for the United States a release of all claims, legal or equitable, that he may have against the Defendants relating to the claims asserted in this lawsuit. This release shall take the form of Appendix C to this Consent Order. When counsel for the United States has received a check payable to Mr. Williams from the Defendants and the original signed release from Mr. Williams, the United States shall deliver the check to Mr. Williams and the original signed release to counsel for the Defendants.



**VIII. JURISDICTION, DURATION, AND SCOPE**

20. The parties stipulate, and the Court finds, that the Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and under 42 U.S.C. § 3612(o).
21. This Consent Order is effective immediately upon its entry by the Court, and shall remain in effect for three years from the date of its entry.
22. The Court shall retain jurisdiction over this action and the parties thereto for the purpose of enforcing and modifying the terms of the Consent Order while the Consent Order remains in effect.
23. The United States may move the Court to extend the period in which this Consent Order is in effect if the United States believes it is likely that the Defendants violated one or more terms of the Consent Order or if the interests of justice so require to effectuate the rights and obligations arising from this Consent Order. This action and the Complaint shall be deemed dismissed with prejudice upon the expiration of this Consent Order.
24. Any time limits for performance imposed by this Consent Order may be extended by mutual written agreement of the parties.
25. The terms of this Consent Order shall not be modified, revised, or altered unless mutually agreed upon in writing by the parties and approved by the Court, except as provided in Paragraphs 23-24.
26. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Consent Order prior to bringing such matters to the Court for resolution. However, in the event the Defendants fail to perform in a timely manner any act required by this Consent Order or act in violation of any provision of this Order, the United States may move the Court to impose any remedy authorized by

law or equity, including, but not limited to, an order requiring performance or non-performance of certain acts and an award of damages, costs, and reasonable attorney's fees that may have been occasioned by the Defendants' violation or failure to perform.

27. The United States may take steps to monitor the Defendants' compliance with the Agreement, including conducting fair housing tests at rental housing owned and/or managed by the Corporate Defendants.
28. The Corporate Defendants' obligations under this Consent Order shall extend to all rental housing the Corporate Defendants own and/or manage at present and/or while this Consent Order remains in effect.
29. If, at any time before the expiration of this Consent Order, the Corporate Defendants acquire a direct or indirect management or ownership interest in any residential rental property, such property shall become subject to the applicable provisions of this Consent Order. Within 30 days of acquiring such an interest, the Corporate Defendants shall notify counsel for the United States of the nature of their interest in the dwelling or property, the address of the property, and the number of individual dwelling units at the property. The Corporate Defendants shall further provide a copy of the documents memorializing the transfer in interest.
30. If, at any time before the expiration of this Consent Order, the Corporate Defendants sell or otherwise relinquish their interest in any property subject to this Consent Order to a bona fide, independent, third-party in an arms-length transaction,<sup>2</sup> that property shall

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<sup>2</sup> For purposes of this Consent Order, "arms-length transaction" is defined as a transaction that has been arrived at in the marketplace between independent, non-affiliated persons, unrelated by blood or marriage, with opposing economic interests regarding that transaction. A transaction involving a corporate entity in which the Corporate Defendants, or any person related to the Corporate Defendants by corporate affiliation are officers, members, executives, managers,

cease to be subject to this Consent Order. For purposes of this paragraph, a “bona fide, independent, third-party” is one in which neither the Corporate Defendants nor their officers, members, executives, managers, partners, employees, subsidiaries, affiliates, or agents has any current or past financial, contractual, personal, or familial relationship.

31. If, at any time while this Consent Order remains in effect, the Corporate Defendants maintain that their obligations under this Consent Order have terminated or changed because they have sold or transferred their interest in any property subject to this Consent Order to a bona-fide third party in an arms-length transaction, the Corporate Defendants shall inform the United States within 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 transferee.

32. If any transfer of interest in any property subject to this Consent Order is not an arms-length transaction, the Corporate Defendants shall remain jointly and severally liable, along with the transferee, for any violations of this Consent Order.

**IX. COSTS OF LITIGATION**

33. Except as provided for in Paragraph 26, all parties shall be responsible for their own attorney’s fees and costs associated with this action.

**X. TERMINATION OF LITIGATION HOLD**

34. The parties agree that, as of the effective date of this Consent Order, litigation is not “reasonably foreseeable” concerning the matters described in the United States’ Complaint. To the extent that any of the parties previously implemented a litigation hold

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partners, employees, subsidiaries, affiliates, or agents, shall not be considered an arms-length transaction.

to preserve documents, electronically stored information (ESI), or things related to the matters described in the Complaint, they are no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any of the parties of any other obligations imposed by this Consent Order.

**IT IS SO ORDERED:**

This 23<sup>rd</sup> day of August, 2019.



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UNITED STATES DISTRICT JUDGE

**For the United States of America:**

Dated: August 20, 2019

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Assistant Attorney General  
Civil Rights Division



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**For the Defendants Hubbard Properties, Inc., Hunter's Pointe, LLC, and Bethany Petz**

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
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**For the United States of America:**

Dated: \_\_\_\_\_, 2019


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**For the Defendants Hubbard Properties, Inc., Hunter's Pointe, LLC, and Bethany Petz**

Dated: 8-20, 2019

  
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**APPENDIX A**

**CERTIFICATION AND ACKNOWLEDGMENT**

I certify that on \_\_\_\_\_, 20\_\_\_\_, I received \_\_\_\_\_ minutes of in-person training on the requirements of the federal Fair Housing Act. I understand and acknowledge my duties and responsibilities under the federal Fair Housing Act and under the Consent Order entered in the case of *United States v. Hubbard Properties, Inc. et al.*, No. 19-313 (S.D. Ala.).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Job Title/Position

\_\_\_\_\_  
Date

**APPENDIX B**

**CERTIFICATION AND ACKNOWLEDGMENT**

I certify that on \_\_\_\_\_, 20\_\_\_\_, I received \_\_\_\_\_ minutes of web based training on the requirements of the federal Fair Housing Act. I understand and acknowledge my duties and responsibilities under the federal Fair Housing Act and under the Consent Order entered in the case of *United States v. Hubbard Properties, Inc. et al.*, No. 19-313 (S.D. Ala.).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Job Title/Position

\_\_\_\_\_  
Date



**APPENDIX C**

**RELEASE OF CLAIMS**

In consideration of the parties' agreement to the terms of the Consent Order entered in *United States v. Hubbard Properties, Inc. et al.*, No. 19-313 (S.D. Ala.), and the Defendants' payment to me of \$40,000, I, Curtis Williams, hereby release Defendants Hubbard Properties, Inc., Hunter's Pointe, LLC, and Bethany Petz from any and all liability for any claims, legal or equitable, I may have against them arising out of the issues alleged in the above-referenced action. I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date