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14 IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA, )  
17 Plaintiff, )

Civil Action No. 2:06-cv-2578 FCD KJM

18 v. )

**CONSENT ORDER**

19 SANDPOINTE ASSOCIATES, L.P.; )  
20 BACO REALTY CORP.; and )  
21 HEIDI PRADO, )

22 Defendants. )  
\_\_\_\_\_ )

23 **I. INTRODUCTION**

24 **A. Background**

25 1. This consent order is entered among the United States ("Plaintiff") and Sandpointe  
26 Associates, L.P.; BACO Realty Corporation; and Heidi Prado ("Defendants").  
27

1 2. This action is brought to enforce the Fair Housing Act, Title VIII of the Civil Rights  
2 Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“Fair  
3 Housing Act”), 42 U.S.C. §§ 3601 *et seq.* It is brought on behalf of Heather Smith  
4 and her minor children, Courtney and Megan Smith, pursuant to Section 812(o) of the  
5 Fair Housing Act, 42 U.S.C. § 3612(o). The United States has alleged that the  
6 Defendants have:

7 (a) discriminated in the terms, conditions, or privileges of rental of a dwelling,  
8 or in the provision of services or facilities in connection therewith, because of familial  
9 status, in violation of 42 U.S.C. § 3604(b); and (b) made, printed, or published, or  
10 caused to be made, printed, or published, a notice, statement, or advertisement, with  
11 respect to the rental of a dwelling that indicates a preference, limitation, or  
12 discrimination based on familial status, in violation of 42 U.S.C. § 3604(c).

13 3. Defendant Sandpointe Associates, L.P., owns, operates, and manages the Sandpointe  
14 Apartments, a 156-unit residential apartment complex located at 655 Hilltop Drive,  
15 Redding, California. Defendant BACO Realty Corporation operates and manages the  
16 Sandpointe Apartments on behalf of Sandpointe Associates, L.P. Defendant Heidi  
17 Prado, an employee of BACO Realty Corporation, is the manager of the Sandpointe  
18 Apartments.

19 4. The Sandpointe Apartments is a “dwelling” within the meaning of 42 U.S.C. §  
20 3602(b).

21 5. Heather Smith became a tenant at the Sandpointe Apartments on or about April 30,  
22 2004, with her two minor children. As of May 31, 2005, her children were ten (10)  
23 years old and twelve (12) years old.

24 6. On or about May 31, 2005, Heidi Prado issued a memorandum to all tenants at the  
25 Sandpointe Apartments that stated, “all persons under the age of 14 must remain under  
26 constant visual supervision of an adult 18 years of age or older. No one under the age  
27

1 of 14 would be allowed in the Office Area, Pool Area, Laundry Area, Weight Room  
2 Area, Mail Area, or Outside on the lawns, driveways, behind buildings, or on  
3 sidewalks without an adult present.”

4 **B. Consent of the Parties to Entry of this Order**

5 7. The parties agree that the Court has subject matter jurisdiction over the claims in this  
6 civil action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o). The  
7 parties further agree that the United States District Court for the Eastern District of  
8 California shall retain jurisdiction over this action for all purposes related to the  
9 enforcement of this Order throughout its term, after which time the case shall be  
10 dismissed with prejudice.

11 8. The United States and the Defendants (together "the Parties") agree that this  
12 controversy should be resolved without further proceedings or an evidentiary hearing.

13 9. In order to avoid the costs and expense of litigation, the Defendants, without admitting  
14 liability, desire to settle this matter. Defendants deny all allegations contained in the  
15 United States' complaint.

16 10. The provisions of this Order shall apply to Defendants, their employees, agents,  
17 assigns, successors-in-interest, and all persons in active concert or participation with  
18 them.

19 11. This Order is effective immediately upon its entry by the Court. For purposes of this  
20 Order, the phrase “date of this Order” shall refer to the date on which the Court adopts  
21 this document as an Order of the Court.

22 12. As indicated by the signatures below, all parties agree to the entry of this Consent  
23 Order.

24 Therefore, it is hereby **ORDERED, ADJUDGED** and **DECREED**:

25 **II. GENERAL INJUNCTION**

26 13. For the term of this Order, Defendants, their agents, employees, assigns, successors,  
27

1 and all persons currently in active concert or participation with any of them, shall not:

- 2 a. Discriminate in the terms, conditions or privileges of the rental of a dwelling,  
3 or in the provision of services or facilities in connection therewith, on the basis  
4 of familial status, in violation of 42 U.S.C. § 3604(b); or  
5 b. Make, print, publish, or cause to be made, printed, or published, a notice,  
6 statement, or advertisement, with respect to the rental of a dwelling that  
7 indicates a preference, limitation, or discrimination based on familial status, in  
8 violation of 42 U.S.C. § 3604(c).

9 **III. COMMON AREA POLICY**

- 10 14. Within 30 days of the date of this Order, Defendants shall adopt a familial-status-  
11 neutral policy governing tenant use the common areas, including sidewalks, lawns,  
12 and other open spaces at the Sandpointe Apartments. Within 15 days after the  
13 Defendants adopt such a policy, they shall provide a copy of that policy to the  
14 Department of Justice. That policy, which shall be subject to approval by the  
15 Department of Justice, must comply with the Fair Housing Act. The policy may  
16 contain neutral and reasonable time, place, and manner restrictions on the use of  
17 common areas.

18 **IV. TRAINING**

- 19 15. Within ninety (90) days of the date of entry of this Consent Order, the Defendants  
20 shall undergo training on the Fair Housing Act, with particular emphasis on the  
21 provisions prohibiting discrimination on the basis of familial status. During the  
22 duration of the decree, the Defendants shall also ensure that each new employee or  
23 agent who participates significantly in the rental or management of apartment units  
24 that Defendants owns, attends substantially similar training within 90 days of the date  
25 he or she commences employment or agency. The training shall be conducted by a  
26 qualified third party, approved by the United States, unconnected to Defendants or  
27

1 their employees, agents or counsel, and any expenses associated with this training  
2 shall be borne by Defendants. Defendants shall provide to the United States, thirty  
3 (30) days before the training, the name(s), address(es) and telephone number(s) of the  
4 trainer(s); copies of the training outlines and any materials distributed by the trainers;  
5 and certifications executed by the covered employees and agents confirming their  
6 attendance, in a form substantially equivalent to Appendix B.

7 **V. NOTICE**

8 16. Within ten (10) days of the date of entry of this Consent Order, Defendants shall post  
9 and prominently display in a suitable public area at the Sandpointe Apartments, a sign  
10 no smaller than 10 by 14 inches indicating that they comply with the  
11 nondiscrimination provisions of the Fair Housing Act. A poster that comports with 24  
12 C.F.R. Part 110 will satisfy this requirement.

13 17. For the duration of this Consent Order, in all future advertising in newspapers, and on  
14 pamphlets, brochures and other promotional literature regarding the Sandpointe  
15 Apartments, and at any other rental properties the Defendants may own or have  
16 interest in, they shall place, in a conspicuous location, the statement Equal Housing  
17 Opportunity along with the Fair Housing Logo.

18 **VI. REPORTING**

19 18. During the period in which this Order is in effect, Defendants BACO Realty Inc. and  
20 Heidi Prado shall notify counsel for the United States in writing within fifteen (15)  
21 days of receipt of any written or oral complaint against Defendants, or Defendants'  
22 agents or employees, regarding familial status discrimination in housing.<sup>1</sup> "Familial  
23

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24 1

25 All documents or other communications required by this Order to be sent to counsel for the United States shall be  
26 addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-11E-173,  
27 United States Department of Justice, 950 Pennsylvania Avenue N.W.- G St., Washington, D.C. 20530, or as  
28 otherwise directed by the United States. If the Consent Order requires transmission by facsimile, the  
communication shall also be sent via facsimile to (202) 514-1116.

1 status” means one or more individuals (who have not attained the age of 18 years)  
2 being domiciled with (a) a parent or another person having legal custody of such  
3 individual or individuals; or (b) the designee of such parent or other person having  
4 such custody, with the written permission of such parent or other person. The  
5 protections afforded against discrimination on the basis of familial status shall apply  
6 to any person who is pregnant or is in the process of securing legal custody of any  
7 individual who has not attained the age of 18 years. If the complaint is written,  
8 Defendants shall provide a copy of it with the notification. The notification shall  
9 include the full details of the complaint, including the complainant's name, address,  
10 and telephone number. Defendants shall also promptly provide the United States all  
11 information it may request concerning any such complaint and shall inform the United  
12 States within fifteen (15) days of any resolution of such complaint.

- 13 19. Defendants shall provide any information reasonably related to compliance with this  
14 Order that is requested by the United States.

15 **VII. COMPENSATION FOR AGGRIEVED PERSONS**

- 16 20. Defendants shall pay the total sum of \$20,000 to the following aggrieved persons:

17 Heather Smith \$12,500  
18 5536 Trish Court  
19 Redding, CA 96006

19 Courtney Smith \$3,750  
20 5536 Trish Court  
21 Redding, CA 96006

21 Megan Smith \$3,750  
22 5536 Trish Court  
23 Redding, CA 96006

24 Defendants shall send a check payable to each of the above persons in the amounts  
25 listed above within thirty (30) days of the date of entry of this Order to the United  
26  
27  
28

1 States.<sup>2</sup> No amount shall be paid pursuant to this paragraph before each of the aggrieved  
2 persons has executed the written release of all claims, legal or equitable, that he or she might  
3 have against Defendants relating to the claims asserted in this lawsuit, set out in Appendix A.  
4 If any of the above persons declines to execute a written release, then the check payable to the  
5 declining person shall be returned to Defendants.

6 **VIII. REMEDIES FOR NON-PERFORMANCE**

7 21. The parties to this Consent Order shall endeavor in good faith to resolve informally  
8 any differences regarding interpretation of and compliance with this Order prior to  
9 bringing such matters to the Court for resolution. However, in the event of a failure  
10 by the Defendants to perform, in a timely manner, any act required by this Order or  
11 otherwise for the Defendants to fail to act in conformance with any provision thereof,  
12 the United States may move this Court to impose any remedy authorized by law or  
13 equity, including, but not limited to, an order requiring performance of such act or  
14 deeming such act to have been performed, and an award of any damages, costs, and  
15 reasonable attorneys' fees which may have been occasioned by the violation or failure  
16 to perform.

17 22. In the event that Defendants engage in any future violation(s) of the Fair Housing Act,  
18 such violation(s) shall constitute a "subsequent violation" pursuant to 42 U.S.C.  
19 § 3614(d).

20 23. This Order shall be in effect for a period of three (3) years from the date of its entry,  
21 after which time the case shall be dismissed with prejudice. The United States may  
22 move the Court to extend the duration of this Order in the interests of justice.

23 **IX. COSTS OF LITIGATION**

24 24. The United States and the Defendants shall each bear their own costs and attorneys'

25 \_\_\_\_\_  
26 2

27 No payment shall be distributed to Courtney Smith or Megan Smith, pursuant to Paragraph 20 of this  
28 Order, unless and until the Court has issued an order approving this Consent Order.

1 fees associated with this litigation.

2 **X. TIME FOR PERFORMANCE**

3 25. Any time limits for performance imposed by this Order may be extended by mutual  
4 written agreement of the parties.

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

6  
7 For the United States:

WAN J. KIM  
Assistant Attorney General

8  
9  
10 

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STEVEN H. ROSENBAUM  
Chief  
11 KEISHA DAWN BELL  
Deputy Chief  
12 SEAN R. KEVENEY  
Trial Attorney  
13 U.S. Department of Justice  
Civil Rights Division  
14 Housing and Civil Enforcement Section  
1800 G. Street, N.W.  
15 Washington, DC 20530  
(202) 353-9062

16 For the Defendants:

17  
18 

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Zachary Best, Esq.  
19 Corfee Stone & Associates  
5441 Fair Oaks Blvd., Suite B-1  
20 Carmichael, CA 95608  
*Counsel for Sandpointe Associates L.P.*

21  
22  
23 

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Zachary Best, Esq.  
24 Corfee Stone & Associates  
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25 Carmichael, CA 95608  
*Counsel for BACO Realty Corp.*

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27  
28 Consent Order 8

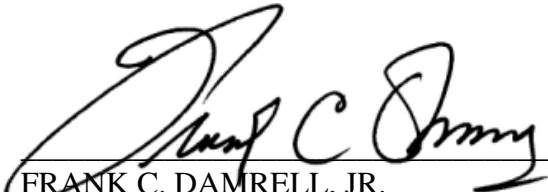


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\_\_\_\_\_  
Catherine Corfee, Esq.  
Zachary Best, Esq.  
Corfee Stone & Associates  
5441 Fair Oaks Blvd., Suite B-1  
Carmichael, CA 95608  
*Counsel for Heidi Prado*

IT IS SO ORDERED.

DATED: July 2, 2007

  
\_\_\_\_\_  
FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE

APPENDIX A

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. BACO Realty Corp., et al., in the Eastern District of California, and the Defendants' payment to me of \$ \_\_\_\_\_, I, \_\_\_\_\_, hereby agree, effective upon receipt of payment, to remise, release and forever discharge all claims, including but not limited to claims for costs and attorneys' fees, of any kind, nature or description whatsoever, related to the facts at issue in the litigation referenced above, or in any way related to that litigation, and any other claims arising from alleged housing discrimination up to and including the date of execution of this release, that I may have against Sandpointe Associates, L.P.; BACO Realty Corporation; and Heidi Prado, ("Defendants") and their agents, employees, officers, heirs, executors, administrators, successors or assigns.

I acknowledge and understand that, by signing this Release and accepting this payment, I am waiving any right to pursue my own legal action based on the discrimination alleged by the United States in this case.

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

I waive any claims I may have against the United States arising out of this action.

This General Release constitutes the entire agreement between Defendants and me, without exception or exclusion.

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Name

**APPENDIX B**

**Certificate of Attendance**

I, \_\_\_\_\_, hereby acknowledge that on \_\_\_\_\_  
I received training by \_\_\_\_\_ on the requirements of the Fair Housing Act,  
42 U.S.C. §§ 3601-19, and that I have read the Consent Order entered by the United States  
District Court for the Eastern District of California in United States v. BACO Realty Corp., et  
al.

I understand my obligation not to discriminate on the basis of familial status in violation  
of the Fair Housing Act.

I agree to comply with the Fair Housing Act and the Court's Order in the above-  
mentioned civil action.

\_\_\_\_\_

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires \_\_\_\_\_.