

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS**

The Secretary, United States Department)	
of Housing and Urban Development,)	
on behalf of Complainant Redacted ,)	
)	
Charging Party,)	
)	HUD ALJ No. 18-JM-0179-FH-006
and)	
)	
Redacted)	
)	
Complainant-Intervenor,)	
)	
v.)	
)	
Nolo Contendre, LLC,)	
Nolo Contendre LLC Trust,)	
Charles Wallis, and Joseph Barton,)	
)	
Respondents.)	

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

1. This matter arose from a complaint of discrimination filed by Complainant **Redacted** **Redacted** (“Complainant”) on May 3, 2016 with the United States Department of Housing and Urban Development (“Department” or “HUD”) pursuant to the Fair Housing Act, 42 U.S.C. §§ 3601-19 (“Act”).

2. On May 10, 2018, the Department issued a Charge of Discrimination (“Charge”) against Respondents Charles Wallis, Joseph Barton, Nolo Contendere, LLC, and Nolo Contendre LLC Trust (collectively, “Respondents”) alleging violations of 42 U.S.C. §§ 3604(f) and 3617, which prohibit the failure to grant reasonable accommodations to persons with disabilities, and interference with the exercise of fair housing rights.

3. The Complainant, Respondents, and the Department (“parties”) have agreed to resolve this matter without the need for a hearing before a HUD Administrative Law Judge (“ALJ”). The parties have consented to the entry of this Initial Decision and Consent Order (“Consent Order”) as indicated by their signatures below.

II. GENERAL PROVISIONS

4. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed Charge. No party has been coerced or in any way forced to become a party to this Consent Order. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations as set forth below.
5. It is understood that the execution of this Consent Order does not constitute an admission by the Respondents of any violation of the Fair Housing Act.
6. The parties agree that HUD shall file with the Office of Administrative Law Judges a Motion for Entry of an Initial Decision and Consent Order, along with this Initial Decision and Consent Order, after this document is executed by all parties.
7. This Consent Order is binding upon Respondents, their members, principals, owners, employees, successors, agents, assigns, and all others in active concert with them in the operation of Nolo Contendere, LLC or Nolo Contendre LLC Trust.
8. This Consent Order is a full settlement of all claims by Complainant that are in any way related to the allegations set forth in the Charge. The parties hereby forever waive, release, and discharge each other and their attorneys, representatives, employees, and agents from any and all claims, causes of action, demands, fees, and liabilities of any kind, whether known or unknown, that the parties have, have had, or may have concerning the subject matter of HUD Case No.: 18-JM-0179-FH-006, the events described in the Charge of Discrimination, and Redacted tenancy at Redacted in Syracuse. The extent of this release is intended to have the broadest possible application and includes, but is not limited to, any tort, contract, common law, constitutional, and statutory claims arising out of any federal, state, or local laws.
9. Pursuant to 24 C.F.R. § 180.680, this Consent Order is a public document.

III. RELIEF FOR COMPLAINANT

10. Within thirty (30) days of the effective date of this Consent Order, Respondents shall pay to Complainant by certified or cashier's check the sum of fifteen thousand dollars (\$15,000) in full settlement of Complainant's claims for damages arising out of the allegations presented in the Charge. Respondents shall make the check payable to "Redacted" and send the check to:

Conor Kirchner
CNY Fair Housing
731 James Street, Suite 200
Syracuse, NY 13203

Respondents shall photocopy this check and send the copy to HUD's Regional Counsel for New England at the address given below:

Miniard Culpepper, Regional Counsel
c/o Hillary Harnett
U.S. Department of Housing and Urban Development
Office of Regional Counsel
10 Causeway Street, Room 310
Boston, MA 02222

IV. RELIEF IN THE PUBLIC INTEREST

11. Respondents, their agents, employees, successors, members and assigns, and all other persons in active concert or participation with any of them, are hereby enjoined from violating the Fair Housing Act, including:
 - A. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of a disability of that buyer or renter, a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or any person associated with that buyer or renter, as prohibited by the Act, 42 U.S.C. § 3604(f)(1). This includes the refusal 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.
 - B. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of the disability of that person, a person residing in or intending to resident that dwelling after it is so sold, rented, or made available, or any person associated with that person, as prohibited by the Act, 42 U.S.C. § 3604(f)(2). This includes the refusal 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.
 - C. 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, his or her Fair Housing Act rights. 42 U.S.C. § 3617. This include initiating eviction actions against tenants who make reasonable accommodation requests.
12. Respondents Charles Wallis and Joseph Barton shall, within ninety (90) days of the effective date of this Consent Order, attend fair housing training to be conducted by a qualified fair housing enforcement agency. The training must cover Respondents' responsibility under federal, state, and local fair housing laws. Respondents may

contact Daniel Weaver, Supervisory Equal Opportunity Specialist, at (617) 994-8311 for assistance in locating a qualified fair housing enforcement agency to conduct the required training. Respondents shall provide a certificate of completion to HUD in a form to be provided to Respondents by HUD. Respondents as well as the instructor conducting the training shall sign and date the certificate of completion and send it to HUD within thirty (30) days of completion of the training.

13. Respondents shall enact a written reasonable accommodation policy that, among other things, explicitly allows for reasonable accommodation requests for assistance animals, including emotional support animals, and does not impose additional fees or insurance requirements as a condition of granting such requests. A copy of this policy shall be provided to counsel for the Charging Party within 10 days of the effective date of this consent order. This policy shall be approved by the Charging Party and implemented by Respondents within 30 days after the effective date of this consent order. Within 15 days after enacting the policy, Respondents shall distribute a copy to all tenants of any residential rental properties that they have a direct or indirect ownership, management or other financial interest in, and send to HUD: (a) a copy of the policy; and (b) evidence that they distributed the policy to all such tenants.
14. Should Respondents acquire any direct or indirect ownership, management, or other financial interest in any residential rental properties during the term of this Consent Order (“New Properties”), Respondents shall notify HUD within fifteen (15) days of the acquisition of such interest.
15. Within 60 days of the acquisition of New Properties during the term of this Consent Order, Respondents shall enact the written reasonable accommodation policy described in Paragraph 13 at those properties. Within 15 days after enacting the policy, Respondents shall distribute a copy to all tenants of the New Properties, and send to HUD: (a) a copy of the policy; and (b) evidence that it distributed the policy to all such tenants.

V. REPORTING AND RECORD KEEPING

16. With respect to the Relief in the Public Interest described in Section IV above, Respondents shall submit any required correspondence or certifications to HUD at the following email address: ConciliationMonitoringRegion1FHEO@hud.gov. If for any reason the Parties need to mail hard copies of documentation to HUD, they shall use the following mailing address:

Susan Forward, Regional Director
U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
10 Causeway Street, Room 308
Boston, MA 02222

17. During the term of this Consent Order, Respondents shall notify HUD of any formal complaint filed against them with a local, state, or federal agency regarding equal opportunity or discrimination in housing within ten (10) days of receipt of any such complaint. Respondents shall provide a copy of the complaint with the notification to HUD. Respondents provide such notification to the Regional Director at the address in Paragraph 16.

VI. COMPLIANCE

18. During the term of this Consent Order, HUD may review compliance with this Consent Order, subject to and in accordance with HUD regulations. As part of such review, HUD may, upon providing advance notice of said inspection, inspect Respondents' residential rental properties, examine witnesses, and copy pertinent records of Respondents. Respondents agree to provide their full cooperation in any review undertaken by HUD to ensure compliance with this Consent Order.

19. Upon breach of any provision of this Consent Order, HUD may refer this matter to the Department of Justice to petition the United States Court of Appeals for the Second Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j).

VII. ADMINISTRATION

20. This Consent Order is entered into pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. This Consent Order will become effective and final thirty (30) calendar days from the date it is issued by the HUD ALJ or earlier, if affirmed by the Secretary within that time ("effective date"). 24 C.F.R. § 180.680(b).

21. This Consent Order shall remain in effect for a period of three (3) years from its effective date.

22. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other unrelated complaints involving Respondents made pursuant to the Act, or any other complaints within HUD's jurisdiction.

23. If Respondents need an extension of time in order to satisfy a deadline provided in this Consent Order, such extension must be obtained in writing from counsel for the Department.

24. The signature of the parties to this Consent Order constitute a waiver of any right to apply for attorney fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney fees and costs, if any.

25. The parties agree that in the interest of a prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages of this Consent Order, with the signature pages and Consent Order to constitute one document to be filed with the Office of Administrative Law Judges. Signature pages may be provided by facsimile or electronic transmission.

VIII. AGREEMENT OF THE PARTIES

26. The parties below have read this Consent Order in HUD ALJ 18-JM-0179-FH-006 and have willingly signed it with a full understanding of the rights it confers and the responsibilities it imposes upon them, as signified by their signature, or that of their counsel, below:

[SIGNATURE PAGES TO FOLLOW]

COMPLAINANT-INTERVENOR:

Redacted

Date: _____

COUNSEL FOR COMPLAINANT-INTERVENOR :

Conor Kirchner
CNY Fair Housing
731 James Street, Suite 200
Syracuse, NY 13203

Date: _____

FOR RESPONDENTS:

Charles Wallis, individually and on behalf of
Nolo Contendere, LLC and Nolo Contendre LLC Trust

Date: _____

Joseph Barton

Date: _____

FOR THE DEPARTMENT:

Miniard Culpepper
Regional Counsel for New England

Date: _____

IX. ORDER OF THE COURT

On _____, the parties forwarded to the Office of Administrative Law Judges the foregoing proposed Consent Order, incorporating the terms of their agreement. Having reviewed the Consent Order, the Chief Administrative Law Judge finds that it appears to be in the public interest. All parties have given their consent and signed the agreement incorporated in the foregoing Consent Order, which is hereby accepted and issued.

So ORDERED, this ____ day of _____, 2018.

J. Jeremiah Mahoney
Chief Administrative Law Judge