

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA, Plaintiff, v. 315 FRANKLIN, LLC, <i>et al.</i> , Defendants.	Civil Action No.: 18-000844 B
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CONSENT JUDGMENT AND ORDER

This matter comes before the Court on the joint motion of the District of Columbia, (“District”) and Defendants 315 Franklin, LLC, Sanford Capital LLC, Oakmont Management Group LLC and Aubrey Carter Nowell (collectively the “Franklin Defendants”), pursuant to SCR-Civil R. 68-I, for entry of this Consent Judgment and Order (“Consent Order”). The District and the Franklin Defendants, (individually, a “Party” and collectively, the “Parties”) agree to the relief set forth in this Consent Order, and the Court further finds that the entry of the Consent Order is in the public interest. This Consent Order resolves the District’s claims under the Consumer Protection Procedures Act in this matter as to all Franklin Defendants.

I. THE PARTIES

1. Plaintiff District of Columbia is a municipal corporation empowered to sue and be sued and is the local government for the territory constituting the seat of the government of the United States. Pursuant to D.C. Code §§ 28-3814 and 28-3909(a)-(b), the Attorney General is authorized to bring legal actions seeking injunctive relief, consumer restitution, civil penalties, costs, and attorneys’ fees for violations of the District of Columbia Consumer Protection Procedures Act (“CPPA”), D.C. Code § 28-3901, *et seq.*

2. Defendant 315 Franklin, LLC (“Franklin”) is a limited liability company operating in the District of Columbia organized under the laws of the state of Delaware and maintains a principal place of business at 7605 Arlington Road, Suite 250, Bethesda, Maryland 20814. Franklin held legal title to 315-325 Franklin Street, NE (the “Franklin Property”) from April 25, 2012 through February 26, 2018.

3. Defendant Sanford Capital LLC (“Sanford Capital”) is a limited liability company organized under the laws of the state of Delaware and maintains a principal place of business at 7605 Arlington Road, Suite 250, Bethesda, Maryland 20814. Sanford Capital is a residential real estate development and investment firm based in Washington, D.C., and had an ownership interest in, and control over, Franklin at all times Franklin held legal title to the Franklin Property.

4. Defendant Oakmont Management Group LLC (“Oakmont”) is a limited liability company organized under the laws of the state of Delaware and maintains a principal place of business at 7605 Arlington Road, Suite 250, Bethesda, Maryland 20814. Oakmont was responsible for the property management of the Franklin Property and acted as the agent for Franklin at all times Franklin held legal title to the Franklin Property.

5. Defendant Aubrey Carter Nowell (“Nowell”) is a principal, founder, and managing partner of Sanford, the managing member of Franklin, and the managing member of Oakmont.

II. DEFINITIONS

6. “Consumer” shall include the definition contained in D.C. Code § 28-3901(a)(2) and for purposes of this Consent Order shall refer to any resident of the District of Columbia to whom Defendants have offered or sold rental housing accommodations.

7. “Habitable housing” for purposes of this Consent Order shall mean housing in compliance with the D.C. Housing Code (1 through 16 of Title 14 of the District of Columbia Municipal Regulations or Titles 12A-12L of the District of Columbia Municipal Regulations), the D.C. indoor mold law (D.C. Code §§ 8-241.01-241.09), and regulations (20 DCMR §§3200-3299).

8. The “Franklin Property” shall refer to the two apartment buildings, located at 315 and 325 Franklin Street NE, Washington, DC 20002 previously owned by Franklin.

III. PRIOR FRANKLIN PROCEEDINGS

9. On February 2, 2018, the District filed a Complaint (the “Franklin Complaint”) against 315 Franklin, LLC, Sanford Capital, Oakmont, and Nowell (collectively referred to herein as the “Franklin Defendants”) alleging violations of the CPPA in connection with the Franklin Property.

10. The Franklin Complaint alleges that, during the time that the Franklin Defendants owned the Franklin Property, they operated it in a manner that demonstrated a pattern and practice of neglect and complete disregard for the District’s housing laws. The Franklin Complaint alleges that the Franklin Defendants violated the CPPA by engaging in unlawful and deceptive practices that misled consumers.

IV. RELATED PROCEEDINGS

A. “Congress Heights” Superior Court Case

11. Earlier, on January 8, 2016, the District filed a Complaint (the “Initial Congress Heights Complaint”) in the Superior Court, Case No. 2016 CA 000162 B, against 1309 Alabama Avenue, LLC, Alabama Avenue, LLC, 3210 13th Street, LLC, Sanford, and Oakmont, seeking appointment of a receiver relating to apartment buildings at 1309 Alabama Avenue, S.E., 1331

Alabama Avenue S.E., 1333 Alabama Avenue S.E., and 3210 13th Street S.E., in Washington, D.C., 20032 (together, the “Congress Heights Property”).

12. On February 8, 2018, the District moved to amend the Initial Congress Heights Complaint (the “Amended Congress Heights Complaint”) adding Nowell, Sanford Capital II, LLC, CityPartners 5914, LLC, CityPartners, LLC, and Geoffrey Griffis as additional defendants, and adding restitution and damages claims for violations of the CPPA relating to the foregoing Congress Heights Property. The Court granted the District’s Amended Congress Heights Complaint, and it was deemed filed on March 22, 2018.¹

B. “G Street” Superior Court Case

13. On February 2, 2018, the District filed a Complaint (the “G Street Complaint”) in the Superior Court, Case No. 2018 CA 000953 B, against 4951 G Street, LLC, Sanford Capital, Oakmont, and Nowell (collectively referred to herein as the “G Street Defendants”) alleging violations of the CPPA in connection with the apartment buildings at 4951-57 G Street S.E., Washington, D.C. 20002 (the “G Street Property”).

14. The G Street Complaint alleges that, during the time that the G Street Defendants owned the G Street Property, they operated it in a manner that demonstrated a pattern and practice of neglect and complete disregard for the District’s housing laws. The G Street Complaint alleges that the G Street Defendants violated the CPPA by engaging in unlawful and deceptive practices that misled consumers.

¹ Defendants 1309 Alabama Avenue, LLC, Alabama Avenue, LLC, 3210 13th Street, LLC, Sanford, Oakmont, Nowell, and Sanford Capital II, LLC, will be collectively referred to herein as the “Congress Heights Sanford Defendants.”

C. “Franklin” Bankruptcy Case

15. On September 13, 2017, Franklin, which then held title to the Franklin Property, filed for bankruptcy: *In re 315 Franklin, LLC*, Case no. 17-00512-SMT (Bk. D.D.C.) (the “Franklin Bankruptcy”). The District filed a claim in the Franklin Bankruptcy based upon its claims for restitution, costs and penalties under the CPPA in this case.

16. As a part of an Order of the U.S. Bankruptcy Court for the District of Columbia (the “Bankruptcy Court”) approving a settlement (the “Franklin Settlement”) between Franklin, the District, and certain tenants of the Franklin Property, entered on October 22, 2019, Franklin has agreed that the District will receive the sum of \$581,837.74.

17. Separately, and as a part of a comprehensive global resolution of the CPPA claims against the Franklin Defendants, the G Street Defendants, and the Congress Heights Sanford Defendants, the Parties hereto have agreed to the following:

a. Oakmont has assigned to the District its general unsecured, non-priority claim against Franklin’s bankruptcy estate for pre-bankruptcy management fees in the amount of \$123,442.55 (the “Oakmont Claim”), which claim will be paid in full as part of a structured dismissal of the Franklin Bankruptcy and

b. Nowell will pay the District \$50,000.

18. The Parties agreed that the payments and assignment to the District outlined in Paragraphs 16 and 17 (i) may be used by the District for any lawful purpose, and (ii) fully satisfy the Franklin Defendants’ monetary obligations in connection with the District’s claims asserted, or that could have been asserted, based on the facts alleged in the Franklin Complaint.

V. APPLICATION

19. The provisions of this Consent Order shall apply to Defendant Nowell and his agents, employees and assigns, and any partnership, corporation or entity in which he either currently, or in the future, has an ownership interest, has authority to control, or has the authority to establish policy.

20. The provisions of this Consent Order shall apply to Defendants Franklin, Sanford Capital, and Oakmont, and all persons or entities that they control or have the ability to control, including without limitation its principals, officers, directors, employees, agents, successors, assignees, affiliates, merged or acquired entities, or wholly owned subsidiaries, and all other persons acting in concert with Defendants Franklin, Sanford Capital, and Oakmont now and in the future.

A. REPRESENTATIONS OF DEFENDANTS

21. Franklin Defendants represent that they are currently taking or have otherwise taken all practicable steps to divest all ownership interest(s) in residential apartment properties in Washington, D.C.

22. Franklin Defendants represent that they have provided the District with full and complete rent roll information for the entire time that the Franklin Defendants owned and managed the Property, including complete information concerning the rent monies that were (i) charged to tenants, (ii) paid by tenants, or (iii) that was due but not paid by tenants.

B. INJUNCTIVE TERMS

a. General Prohibitions

23. Franklin Defendants shall not engage in any act or practice in violation of the CPPA in connection with the offer or sale of any consumer good or service.

24. Franklin Defendants shall not make any representations that their goods or services have a certification or characteristic that they do not have.

25. Franklin Defendants shall not make any representations that their goods or services are of a particular standard or quality if in fact they are of another.

26. Franklin Defendants shall not make any oral or written statements that have the capacity, tendency, or effect of deceiving or misleading consumers.

27. Franklin Defendants shall not make any misrepresentations concerning a material fact that have the tendency to mislead consumers.

28. Franklin Defendants shall not fail to state a material fact, the omission of which deceives or tends to deceive consumers.

29. Franklin Defendants shall not make any statements that mislead consumers concerning their willingness and ability to supply them with habitable housing.

30. Franklin Defendants shall not offer for rental any residential housing in the District of Columbia unless they are able to supply habitable housing to any prospective tenant.

b. Ownership of Residential Apartment Properties in Washington, D.C.

31. Franklin Defendants shall continue to divest all ownership interest(s) and/or control the Franklin Defendants may have in any residential apartment property in Washington, D.C. in accordance with the Consent Judgment and Order signed and entered on May 4, 2018 in *District of Columbia v. Terrace Manor, LLC, et al.*, 2016 CA 0007767 B (“Terrace Manor Agreement”).

C. PAYMENT TO THE DISTRICT

32. In connection with the Franklin Bankruptcy, Franklin will distribute to the District the sum of \$581,837.74. The District may use this distribution for any lawful purposes,

including, but not limited to, restitution to current and former tenants of the Franklin Defendants, attorneys' fees, and other costs of investigation and litigation, and/or be placed in, or applied to, the District's restitution fund or litigation support fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the Attorney General for the District of Columbia. Franklin Defendants agree to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the administration of the District's payment under this paragraph.

33. In accordance with the Consent Judgments in *District of Columbia v. 4951 G Street, LLC, et al.* (Case No. 2018 CA 000953 B) and *District of Columbia v. 1309 Alabama Avenue, et al.* (Case No. 2016 CA 000162 B), within thirty (30) days of the Franklin Bankruptcy Court's approval of the motion for structured dismissal, Nowell shall pay to the District the sum of \$50,000. This money may be used for any lawful purposes, including, but not limited to, restitution to current and former tenants of the Franklin Defendants, attorneys' fees, and other costs of investigation and litigation, and/or be placed in, or applied to, the District's restitution fund or litigation support fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the Attorney General for the District of Columbia. Franklin Defendants agree to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the administration of the District's payment under this paragraph.

34. In accordance with the Consent Judgments in *District of Columbia v. 4951 G Street, LLC, et al.* (Case No. 2018 CA 000953 B) and *District of Columbia v. 1309 Alabama Avenue, et al.* (Case No. 2016 CA 000162 B), and upon the structural dismissal of the Franklin Bankruptcy, Franklin will distribute to the District, on account of the Oakmont Claim assigned to

the District, the sum of \$123,442.55. The funds distributed to the District on account of the Oakmont Claim may be used for any lawful purposes, including, but not limited to, restitution to current and former tenants of the Franklin Defendants, attorneys' fees, and other costs of investigation and litigation, and/or be placed in, or applied to, the District's restitution fund or litigation support fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the Attorney General for the District of Columbia. Franklin Defendants agree to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the administration of the District's payment under this paragraph.

35. Upon receipt of all payments addressed in paragraphs 32 through 34, the District releases the Franklin Defendants from all claims the District asserted, or could have asserted, based on the facts alleged in the Franklin Complaint.

D. ADDITIONAL TERMS

36. No Admission. The Franklin Defendants specifically deny liability of any and every sort and the Franklin Defendants have made no agreement to do or refrain from doing any act or thing not expressly set forth herein. It is further understood and agreed that this Order is not to be construed as an admission of liability by any of the Franklin Defendants.

37. The District is entering this Consent Order based on the representation made by the Franklin Defendants in paragraphs 21-22 above. If the District uncovers evidence that any of the Franklin Defendants' representations are materially false, the Franklin Defendants agree that the District may seek to modify or rescind the terms of this Consent Order and/or take additional legal action against the Franklin Defendants for injunctive relief or to seek additional restitution from the Franklin Defendants on behalf of any tenants for whom accurate rent roll information was not provided.

38. Franklin Defendants shall not cause or encourage third parties, or knowingly permit third parties acting on its behalf, to engage in practices from which the Franklin Defendants are prohibited by this Consent Order.

39. In entering into this Consent Order, the Parties are neither extinguishing any rights otherwise available to consumers, nor creating any right not otherwise available under the laws of the District of Columbia.

40. This Court retains jurisdiction of this Consent Order and the Parties for the purpose of enforcing this Consent Order and for the purpose of granting such additional relief as may be necessary and appropriate.

41. This Consent Order may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

42. All notices under this Consent Order shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

For the District:

Benjamin M. Wiseman
Director, Office of Consumer Protection
441 4th Street, N.W., Suite 630 South
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(202) 741-5226
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For the Defendants:

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1629 K Street, NW, Suite 260

Washington, DC 20006
(202) 857-1696
flint@ewdc.com
franke@ewdc.com

43. Any breach of the injunctive terms contained in this Consent Order shall be considered an unlawful trade practice that violates the CPPA.

44. Any failure by any Party to this Consent Order to insist upon the strict performance by any other Party of any of the provisions of this Consent Order shall not be deemed a waiver of any of the provisions of this Consent Order, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Consent Order.

45. If any clause, provision or section of this Consent Order shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Consent Order and this Consent Order shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

46. Nothing in this Consent Order shall be construed as relieving Franklin Defendants of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Consent Order be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

47. Franklin Defendants shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Consent Order or for any other purpose that would otherwise circumvent any part of this Consent Order or the spirit or purposes of this Consent Order.

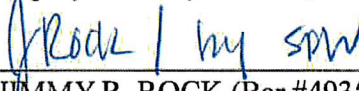
48. The Parties may apply to the Court to modify this Consent Order by agreement at any time. Any Party may apply to the Court, without all Parties' agreement, to modify this Consent Order for good cause shown based on a substantial change in law or fact occurring after the date this Consent Order is entered.

CONSENTED TO FOR THE DISTRICT OF COLUMBIA:

Dated: 10/23/2019

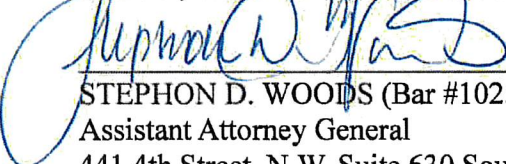
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BENJAMIN M. WISEMAN
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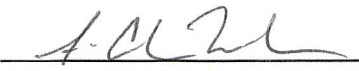


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**CONSENTED TO INDIVIDUALLY AND FOR 315 FRANKLIN LLC, SANFORD
CAPITAL LLC, OAKMONT MANAGEMENT GROUP LLC and AUBREY
CARTER NOWELL**

Dated: 10-24-19



AUBREY CARTER NOWELL

SO ORDERED AND ADJUDGED.

**Judge Shana Frost Matini
Superior Court Judge**