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MICHAEL K. JEANES, Clerk
By M. Salli
Deputy

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2 The Attorney General
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CERTIFIED COPY

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11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 THE STATE OF ARIZONA *ex rel.* TERRY
14 GODDARD, the Attorney General, and THE
15 CIVIL RIGHTS DIVISION OF THE
16 ARIZONA DEPARTMENT OF LAW,

17 Plaintiff,

18 vs.

19 DANA PERNO, an unmarried man,

20 Defendant.

No. CV2008-001196

CONSENT JUDGMENT

(Assigned to Hon. Mark Aceto)

21 Plaintiff, the State of Arizona, through Attorney General Terry Goddard and the Civil
22 Rights Division (collectively "the State") filed this action against Defendant Dana Perno
23 ("Defendant"), alleging that he engaged in familial status discrimination against prospective
24 renter, Catherine Giebel, in violation of the Arizona Fair Housing Act ("AFHA"), A.R.S. §§
25 41-1491 to 41-1491.37, by allegedly making discriminatory statements, refusing to rent a rental
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1 house after receiving a bona fide offer, refusing to negotiate for rental of a rental house, or
2 otherwise making unavailable or denying a rental house.

3 The State and the Defendant (collectively "the Parties") desire to resolve the issues
4 raised by the Complaint, without the time, expense and uncertainty of further contested
5 litigation. The Parties expressly acknowledge that this Consent Judgment is the compromise of
6 disputed claims and that there was no adjudication of any claim.
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8 The Parties stipulate and agree that after the State filed this action, the Defendant filed a
9 Chapter 7 bankruptcy petition in the United States Bankruptcy Court for the District of Arizona
10 ("the Bankruptcy Court") under Case No. 2:08-bk-0100-SSC ("the Bankruptcy Case") and
11 that, as of that time, the Defendant had ceased engaging in the sale or rental of residential real
12 estate and had no assets available for unsecured creditors. On May 12, 2008, the Defendant
13 received a Chapter 7 discharge from debts in the Bankruptcy Case under 11 U.S.C. §727 ("the
14 Discharge"). Accordingly, the Bankruptcy Court will determine whether and to what extent
15 Catherine Giebel will recover monetary compensation from the Defendant's bankruptcy estate
16 in the Bankruptcy Case for any damages she may have for the Defendant's alleged violation of
17 the Arizona Fair Housing Act, as set forth in the Complaint.
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21 The Parties, however, acknowledge that pursuant to 11 U.S.C. §362(b)(4), Defendant's
22 filing of the Bankruptcy Case did not and does not stay the present action filed by the State
23 under its police and regulatory power, to the extent it seeks non-monetary, equitable relief for
24 Defendant's alleged violation of the Arizona Fair Housing Act.
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1 The Parties further acknowledge that the Defendant has not admitted nor does he now
2 admit the truth of any claim or liability for any claims made in the Complaint filed in this
3 matter, or otherwise alleged by the State in this lawsuit. Notwithstanding his non-admission of
4 liability, the Defendant agrees to be bound by this Consent Judgment and not to contest that it
5 was validly entered into in any subsequent proceeding to implement or enforce its terms. The
6 Parties therefore have consented to the entry of this Consent Judgment, waiving trial, findings
7 of fact, and conclusions of law.

8
9 It appearing to the Court that entry of this Consent Judgment will further the objectives
10 of the Arizona Civil Rights Act, and that this Consent Judgment fully protects the Parties and
11 the public with respect to the matters within the scope of this Consent Judgment,
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13 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as
14 follows:
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16 **JURISDICTION**

17 1. This Court has jurisdiction over the subject matter of this action and over the
18 Parties hereto, and venue in Maricopa County is proper.
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20 **RELEASE**

21 2. This Consent Judgment and the consideration provided therein resolves all
22 issues and equitable claims raised in the State's Complaint filed in this case, and the issues
23 and equitable claims whether known or unknown that were required to be raised, or that could
24 have been raised by the State under the Arizona Fair Housing Act or the Federal Fair Housing
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1 Act with respect to the administrative fair housing complaint filed against Defendant by
2 Catherine Giebel.

3 **NO DISCRIMINATION**

4 3. Consistent with the meanings of A.R.S. § 41-1491, *et seq.*, Defendant shall abide
5 by the Arizona Fair Housing Act and shall not engage in housing discrimination based upon
6 race, color, religion, sex, national origin, familial status, or disability. In particular, Defendant
7 shall not make, print, publish, or cause to be made, printed or published any notice, statement
8 or advertisement with respect to the sale or rental of residential real property that indicates any
9 illegal preference, limitation or discrimination or intent to make an illegal preference,
10 limitation or discrimination based on the race, color, sex, religion, national origin, familial
11 status or disability of the prospective buyers or renters.
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15 **NO RETALIATION**

16 4. Defendant shall not directly or indirectly engage in retaliation of any kind in
17 violation of the Arizona Fair Housing Act against Catherine Giebel, or against any other
18 person, because of the matters raised in the State's Complaint or because he or she has opposed
19 any practice reasonably believed by him or her to be unlawful under A.R.S. §§ 41-1491.14
20 through 41-1491.21, or because he or she has given testimony or assistance, or participated in
21 any manner in any investigation or proceeding, or sought recovery of claims under the Arizona
22 Fair Housing Act.
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1 **COSTS**

2 5. The Parties shall bear their respective attorneys' fees and costs incurred in this
3 action up to the date of entry of this Consent Judgment. In any action brought to assess or
4 enforce the Defendant's compliance with the terms of this Consent Judgment, the Court in its
5 discretion may award reasonable costs and attorneys' fees to the prevailing party.
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7 **NOTICE OF RESIDENTIAL REAL PROPERTY SALE OR RENTAL**

8 6. Should the Defendant decide to return to selling or renting residential real
9 property to others in the State of Arizona, the Defendant shall give the State a minimum of
10 thirty (30) days advance written notice of intent to resume selling or renting residential real
11 property to others, and shall identify the property or properties that Defendant intends to sell or
12 rent, if known.
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15 **TRAINING**

16 7. Prior to beginning to sell or rent residential real property to others in the State of
17 Arizona, Defendant shall undergo a minimum of three (3) hours of fair housing training. The
18 curriculum and the instructor for the fair housing training shall be submitted to the State for
19 approval in advance of the training. Within ten (10) days after attending the training, the
20 Defendant shall provide the State with documentation that he attended the fair housing training.
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22 **NOTICES**

23 8.. When this Consent Judgment requires the submission of notices, information or
24 materials to the State, they shall be mailed to: Sandra R. Kane, Assistant Attorney General,
25
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1 Office of the Attorney General, Civil Rights Division, 1275 W. Washington, Phoenix, Arizona
2 85007, or her successor(s).

3 **CONTINUING JURISDICTION OF THE COURT**

4 9. The Court shall retain jurisdiction over both the subject matter of this Consent
5 Judgment and the Parties for a period of three years from entry of the Consent Judgment. This
6 Consent Judgment shall expire by its own terms at the end of three years after entry of the
7 Consent Judgment, without further action of the parties. The State may petition this Court for
8 compliance with this Consent Judgment at any time during the period that this Court maintains
9 jurisdiction over this action. Should the Court determine that Defendant has not complied with
10 this Consent Judgment, appropriate relief, including, but not limited to: extension of the
11 Consent Judgment for such period as may be necessary to remedy the non-compliance, may be
12 ordered.
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16 **CHOICE OF LAW**

17 10. This Consent Judgment shall be governed in all respects whether as to validity,
18 construction, capacity, performance or otherwise by the laws of the State of Arizona.
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20 **CONTINUING OBLIGATIONS**

21 11. Defendant's obligations under this Consent Judgment shall be binding upon the
22 Defendant's heirs, assigns, successors, successors-in-interest, receivers, trustees in bankruptcy,
23 personal representatives, agents, employees, and all persons in active concert or participation
24 with the Defendant.
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1 APPROVED AS TO FORM AND SUBSTANCE this 9th day of June,
2 2008:

3 TERRY GODDARD
4 Attorney General

ALLEN SALA & BAYNE, P.L.C.

5
6 By Sandra R. Kane
7 Sandra R. Kane
8 Assistant Attorney General
9 1275 W. Washington
10 Phoenix, Arizona 85007
11 Attorneys for Plaintiff

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