

FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

CONTINENTAL WESTERN)
INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.)
)
LOWELL SIEBELS; CAROLYN)
SIEBELS; STATE OF NORTH)
DAKOTA, BY NORTH DAKOTA)
DEPARTMENT OF LABOR; FAIR)
HOUSING OF THE DAKOTAS; AND)
[REDACTED])
)
Defendants)
)
_____)
FAIR HOUSING OF THE DAKOTAS)
AND [REDACTED],)
)
Counter-claimants,)
)
vs.)
)
CONTINENTAL WESTERN)
INSURANCE COMPANY,)
)
Counter-defendant.)
)
_____)

Case No. 3:08-CV-51
CONSENT DECREE AND FINAL
ORDER

This federal action was brought by Continental Western Insurance Company against their insureds Lowell Siebels and Carolyn Siebels to resolve a dispute related to insurance coverage in an underlying state court action, *State v. Siebels*, case number 09-07-C-1338. In that state case, the North Dakota Department of Labor, Fair

Housing of the Dakotas, [REDACTED] (also joined as defendants in this federal action) allege that Lowell Siebels and Carolyn Siebels violated federal and state fair housing laws in connection with their ownership, operation and management of residential rental properties. Defendants Lowell Siebels and Carolyn Siebels have denied all material allegations in underlying state court action.

The parties have agreed that in order to avoid protracted and costly litigation, the controversy raised in this federal action and the underlying state court action should be resolved without a trial or adjudication on the merits and therefore have consented to entry of this decree. By entering into this consent decree and final order ("Order"), defendants Lowell Siebels and Carolyn Siebels and their insurer Continental Western Insurance Company make no admission of liability or wrongdoing in connection with the allegations and claims made in either action.¹

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

Monetary Payments

1. Defendants Lowell Siebels and Carolyn Siebels, and their insurer, Continental Western Insurance Company, shall make a total payment to [REDACTED] Fair Housing of the Dakotas, and the North Dakota Department of Labor in the amount of \$260,000.00 (two hundred sixty thousand dollars). Continental Western Insurance Company shall be responsible only for the payment of \$160,000.00 (one hundred sixty thousand dollars) of the total sum of \$260,000.00 (two hundred sixty

¹The only terms of this Order that shall apply to Continental Western Insurance Company are paragraph 1, regarding payment, and paragraph 4, regarding execution of a mutual release. No other terms apply to Continental Western Insurance Company, which is not subject to any part of a consent decree.

thousand dollars), and no more. Each of these payments shall be made in the form of check(s) made payable to the Attorney-Client Trust Account of Brancart & Brancart, and delivered to Brancart & Brancart, 8205 Pescadero Road, Loma Mar, CA 94021. This sum shall be inclusive of any claims for damages, attorneys' fees, expenses and costs by Fair Housing of the Dakotas, [REDACTED], and the North Dakota Department of Labor in this action and the underlying state court action.

2. The sum of \$260,000.00 (two hundred sixty thousand dollars) shall be paid in accordance with the following schedule: \$210,000.00 (two hundred ten thousand dollars) due September 28, 2009; \$25,000.00 (twenty-five thousand dollars) due December 31, 2009; and \$25,000.00 (twenty-five thousand dollars) due March 1, 2010.

3. From the total sum paid by Lowell Siebels and Carolyn Siebels, or their insurer, \$5,000.00 (five thousand dollars) shall be allocated to the North Dakota Department of Labor (DOL), and \$10,000.00 (ten thousand dollars) shall be allocated and controlled by the DOL for expenditure to vindicate the public interest by promoting awareness and enforcement of fair housing laws in North Dakota.

Mutual Release

4. The parties shall execute a mutual release indicating that this consent decree and final order constitutes a full and final settlement of any and all claims raised in this action and the underlying state court action, *State v. Siebels*, case number 09-07-C-1338.

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Equitable Terms

5. Defendants Lowell Siebels and Carolyn Siebels, acting individually or through their employees and agents, agree and hereby are permanently enjoined from the ownership, operation, or management of any residential rental property.

Enforcement

6. The Court shall retain jurisdiction for purposes of enforcement only. The

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parties agree that they will confer in good faith in an effort to resolve any disputes that arise under the terms of this Order before moving the Court for enforcement.

ORDERED this 25th day of September, 2009.

/s/ Karen K. Klein
Hon. Karen K. Klein
Chief Magistrate Judge

APPROVED as to content and form:

/s/ Vincent P. Tomkiewicz

Vincent P. Tomkiewicz (pro hac vice)
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ATTORNEYS FOR CONTINENTAL
WESTERN INSURANCE COMPANY

Dated: September 21, 2009.

/s/ Joseph A. Wetch, Jr.

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ATTORNEYS FOR LOWELL SIEBELS
AND CAROLYN SIEBELS

Dated: September 21, 2009.

/s/ Christopher Brancart

**Christopher Brancart
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**ATTORNEYS FOR FAIR HOUSING OF
THE DAKOTAS, INC. AND [REDACTED]**

Dated: September 21, 2009.

**State of North Dakota
Wayne Stenehjem,
Attorney General
/s/ Michael Pitcher**

**By: _____
Office of Attorney General
500 North 9th Street
Bismarck, ND 58501
(701) 328-3640
Email: mtpitcher@nd.gov**

**ATTORNEYS FOR NORTH DAKOTA
DEPARTMENT OF LABOR**

Dated: September 21, 2009.

*** Signature attached (nonECF)**

**Barton J. Cahill
Cahill Law Office, P.A.
403 Center Avenue, Suite 200
Moorhead, MN 56561-1238**

**ATTORNEYS FOR LOWELL SIEBELS
AND CAROLYN SIEBELS**

Dated: September 21, 2009.