

STATE OF VERMONT  
WASHINGTON COUNTY, SS.

FILED

2009 MAR 24 A 11: 29

STATE OF VERMONT, )  
Plaintiff, )  
v. )  
WILLIAM BISSONETTE; JTSZ, LLC; )  
WILLIAM & LEE, LLC; J & S, LLC; )  
SWB, LLC; ALPH REALTY, LLC; )  
BPJS, LLC; and AL'S EMP, LLC; )  
Defendants. )

SUPERIOR COURT  
WASHINGTON COUNTY  
Washington Superior Court  
Docket No. 206-3-09 Wncv

**ASSURANCE OF DISCONTINUANCE**

NOW COMES the State of Vermont, by and through Vermont Attorney General William H. Sorrell, and hereby accepts from William Bissonette, individually and as a principal on behalf of the following limited liability companies ("LLC"): JTSZ, LLC; William & Lee, LLC; J & S, LLC; SWB, LLC; ALPH Realty, LLC; BPJS, LLC; and Al's EMP, LLC ("Defendants") this Assurance of Discontinuance pursuant to 9 V.S.A. § 2459.

**Background**

Defendants are the owners of the properties listed in Attachment A (hereinafter "the properties") and numerous other rental and commercial properties in the Burlington area. If the property has been identified as being owned by a LLC, then the owner LLC is listed on Attachment A. *Id.* William Bissonette has identified himself to be the principal in each of the listed defendant LLCs.

The properties are residential rental properties constructed before 1978 and are therefore "rental target housing" subject to Vermont's lead law, including the requirement of annual essential maintenance practices ("EMPs") that are designed to reduce childhood lead poisoning risks. 18 V.S.A. §§ 1751(19), 1759. Lead-based paint in housing, the focus of

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109 State Street  
Montpelier, VT  
05609

the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).

EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified or reported to the owner, and posting lead paint hazard information in a prominent place. 18 V.S.A. § 1759(a)(2), (4) and (7). The Vermont lead law requires owners of rental target housing to file annual compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b). A copy of the compliance statement must be given to all tenants and to new tenants prior to entering into a lease agreement. 18 V.S.A. § 1759(b)(3) and (4).

The Vermont Consumer Fraud Act, 9 V.S.A., Chapter 63, prohibits unfair and deceptive acts and practices, including the offering for rent, or the renting of, rental target housing that is non-compliant with the lead law.

A violation of the Vermont lead law may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6). Violations of the Consumer Fraud Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. §2458(b)(1). Each day that a violation continues is a separate violation.

The properties listed in Attachment A are not currently in compliance with the Vermont lead law and EMPs have not been filed for them. Defendants have informed the

State of their intentions to enroll the properties in the City of Burlington's Lead Program ("Burlington Lead Program") so that lead hazards can be reduced at the properties, and the risk to tenants of lead exposure will be significantly less than if only EMPs were performed. The Burlington Lead Program offers educational and financial resources to Burlington area landlords that can assist in bringing rental properties to a standard that is above mere compliance with the lead law.

### **INJUNCTIVE RELIEF**

Defendants agree to the following:

1. Not later than five business days after being advised by the Burlington Lead Program as to the remaining information needed to complete the enrollment of the properties in the program, Defendants will provide the information to complete the enrollment of the properties. It is expected that Defendant will provide this information by April 1, 2009.
2. No later than April 20, 2009, Defendants will either complete EMPs at the 63 King Street, Burlington, Vermont, property or will advise the Office of the Attorney General that the 63 King Street property has been enrolled and accepted into the Burlington Lead Program. Communication with the Office of the Attorney General shall be sent to: Robert F. McDougall, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.
3. Defendants shall complete all EMP work, both interior and exterior, at the properties not later than September 1, 2009. It is expected that any work performed by the Burlington Lead Program will be complete by that time.

4. The Burlington Lead Program has indicated that it will prioritize properties of Defendants that house (or are expected to house) children age 6 or under. The following properties have been identified by Defendants as housing children age 6 or under: (1) 81 River Street, Winooski, VT; (2) 40 Interval Ave, Burlington, VT; and (3) 47 Willow Street, Burlington, VT. In the event that any of the other properties listed in Attachment A will be housing a child age 6 or under, Defendant shall immediately notify the Burlington Lead Program and the Office of the Attorney General that it should also be given priority. The Burlington Lead Program will also attempt to give priority to any vacant units at enrolled properties.
5. Defendant will provide the Office of the Attorney General, at the address listed in paragraph 2 above, an update of the status of the work on the properties by July 1, 2009. The update shall be in writing and shall indicate if any of the properties have been completed, the status of the work at the specific properties, whether Defendants or the Burlington Lead Program will be completing the work, and whether it is expected that the September 1, 2009, deadline for EMP compliance will be met.
6. Upon completion of the EMPs at the properties, Defendants will file with the Vermont Department of Health, Defendants' insurance carrier(s) and with the Office of the Attorney General at the address listed in paragraph 2, a completed EMP compliance statement for each property, and will give a copy to an adult in each rented unit of the compliance statement for that tenant's property.

7. If Defendants anticipate not being able to fully comply with the September 1, 2009, deadline for EMP compliance solely due to delays relating to the specific property being enrolled in the Burlington Lead Program, Defendants may request an extension of the deadline from the Attorney General's Office. Such request shall be made as soon as the delay is recognized and must include an approximate date by which the work shall be complete that is verified by a representative of the Burlington Lead Program.
8. In the event that Defendants wish by agreement with the Office of the Attorney General to extend any of the dates above for reasons not relating to the Burlington Lead Program, such request must be made by Defendants at least 10 days in advance of the dates specified in this Assurance of Discontinuance.
9. Defendants shall fully and timely comply with the requirements of the Vermont Lead Law, 18 V.S.A., Chapter 38, as long as they maintain any ownership interest in the properties listed in Attachment A or in any other pre-1978 residential housing in which they currently have or later acquire an ownership interest or provide property management services (unless by property management contract the Defendants are explicitly not responsible for EMPs).

#### **PENALTIES**

10. Defendants shall pay civil penalties of \$24,000.00. Payment shall be due September 10, 2009, and payment made to the "State of Vermont" and shall be sent to: Robert F. McDougall, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

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11. If Defendants inform the Office of the Attorney General that the 63 King Street property has also been enrolled and accepted into the Burlington Lead Program as described in paragraph 2, the civil penalty amount shall be increased by \$1,500.00 for a total penalty of \$25,500.00.
12. If Defendants comply with the requirements of this Assurance of Discontinuance the penalties provided in paragraphs 10 and 11 shall be waived by the State of Vermont.

#### **OTHER RELIEF**

13. This Assurance of Discontinuance is binding on Defendants, however, sale of any of the properties may not occur unless all obligations set forth herein have been completed or this Assurance of Discontinuance is amended in writing to transfer to the buyer or other transferee all remaining obligations.
14. Transfer of ownership of any of the properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767, specifically relating to the transfer of ownership of target housing.
15. This Assurance of Discontinuance shall not affect marketability of title.
16. Should Defendants fully transfer or sell their ownership interest in any of the properties after completing all obligations set forth herein, their obligations with respect to that particular property under this Assurance of Discontinuance is extinguished. However, nothing in this Assurance of Discontinuance in any way affects the obligations of future owners of any of the properties under Vermont law, including under the Vermont lead law.

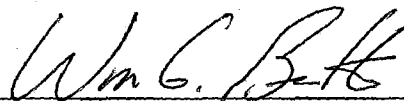
17. Nothing in this Assurance of Discontinuance in any way affects Defendants' other obligations under state, local, or federal law.

18. Any future failure by Defendants to comply with the Vermont lead law at any of the properties referenced in this Assurance of Discontinuance shall be subject to additional penalties of no less than \$10,000.00 per violation per day for each day the violation exists.

**Signature**

By signing below, Defendants acknowledge and agree that the facts contained in the section entitled "Background" are true and voluntarily agree to and submit to the terms of this Assurance of Discontinuance.

DATED at Shelburne, Vermont this 22 day of March, 2009.



William Bissonette, individually and as principal on behalf of: JTSZ, LLC; William & Lee, LLC; J & S, LLC; SWB, LLC; ALPH Reality, LLC; and Al's EMP, LLC.

**Acceptance**

In lieu of instituting an action or proceeding against Defendants, the Office of the Attorney General, pursuant to 9 V.S.A. § 2459, accepts this Assurance of Discontinuance.

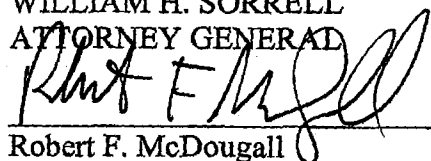
ACCEPTED on behalf of the State of Vermont:

DATED at Montpelier, Vermont this 24<sup>th</sup> day of March, 2009.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:



Robert F. McDougall  
Assistant Attorney General

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**ATTACHMENT A**

**Property**

**LLC**

- |                                                |                    |
|------------------------------------------------|--------------------|
| 1) 81 River Street, Winooski, VT               | JTSZ, LLC          |
| 2) 37 Mallets Bay Ave., Winooski, VT           | JTSZ, LLC          |
| 3) 202 Pine Street, Burlington, VT             | ALPH Reality       |
| 4) 142 North Champlain Street, Burlington, VT  | SWB, LLC           |
| 5) 63 King Street, Burlington, VT              | ALPH Reality, LLC  |
| 6) 16 Peru Street, Burlington, VT              | BPJS, LLC          |
| 7) 260 North Street, Burlington, VT            | AI's EMP, LLC      |
| 8) 40 Interval Ave., Burlington VT             | ALPH Reality, LLC  |
| 9) 100 North Street, Burlington, VT            | J & S, LLC         |
| 10) 83 North Street, Burlington, VT            | ALPH Reality, LLC  |
| 11) 35 North Winooski Ave, Burlington, VT      | ALPH Reality, LLC  |
| 12) 8 Grant Street, Burlington, VT             | William & Lee, LLC |
| 13) 14 Grant Street, Burlington, VT            | William & Lee, LLC |
| 14) 69 North Champlain Street, Burlington, VT  | JTSZ, LLC          |
| 15) 148 North Champlain Street, Burlington, VT | SWB, LLC           |
| 16) 47 Willow Street, Burlington, VT           | SWB, LLC           |
| 17) 166 North Champlain Street, Burlington VT  | JTSZ, LLC          |