# UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States
Department of Housing and Urban
Development, on behalf of Xiao
Wang,

Charging Party,

v.

HUDALJ 09-03-0336-8

Gilbert G. Patchett,

Respondent.

#### CHARGE OF DISCRIMINATION

## I. JURISDICTION

On March 12, 2003, Complainant Xiao Wang filed a timely, verified complaint with the United States Department of Housing and Urban Development ("HUD"). Ms. Wang alleges that Respondent Gilbert B. Patchett discriminated against her by his refusal to rent; discriminatory statements; discriminatory terms, conditions, privileges, services and facilities; and coercion, harassment, intimidation, on the basis of her sex, in violation of the Fair Housing Act, as amended, 42 U.S.C. Sections 3601-3619 ("the Act").

Paragraphs 810(g)(1) and (2) of the Act authorize issuance of a Charge of Discrimination ("Charge") on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. Section 3610(g)(1) and (2).

HUD has determined that reasonable cause exists to believe that the Respondent has discriminated against the Complainant, in violation of the Act, and therefore has authorized the issuance of this Charge.

## II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the complaint, the Secretary has reasonable cause to believe that Respondent has violated the Act, specifically, 42 U.S.C. Sections 3604 and 3617. The following allegations support this Charge:

- 1. It is unlawful to make unavailable or deny a dwelling to any person because of their sex, race and national origin. 42 U.S.C. Section 3604(a); 24 C.F.R. Sections 100.50(b)(1) and 100.60.
- 2. It is unlawful to discriminate against any person in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith because of sex, race, and national origin. 42 U.S.C. Section 3604(b); 24 C.F. R. Section 100.65(a) (1998).
- 3. It is unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates a preference, limitation, or discrimination based on sex, race and national origin, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. Section 3604(c); 24 C.F.R. Section 100.75.
- 4. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by section 804 based on sex, race and national origin. 42 U.S.C. Section 3617; 24 C.F.R. Section 100.400.
- 5. Respondent Gilbert G. Patchett is the owner of a single-family dwelling (subject property) located at 425 Dimm Street in Richmond, California.
- 6. From on or about February 28, 2001, until March 21, 2002, Mr. Patchett advertised rooms for rent at the subject property on the University of California at Berkeley's Cal Rentals' website. All advertisements stated that the rooms were offered to females only.
- 7. At all relevant times, Mr. Patchett resided at the subject property and intended to rent rooms to up to four college students living independently of each other.

- 8. From on or about January 2002, until April 2002, Complainant Xiao X. Wang rented a bedroom at the subject property from Mr. Patchett.
- 9. Beginning in or about February 2002, Mr. Patchett began asking to hug and kiss Ms. Wang. On one occasion he approached her from behind and put his arms around her waist. She repeatedly indicated to him that she was uncomfortable with his behavior and told him to stop.
- 10. On or about March 28, 2002, Mr. Patchett entered Ms. Wang's bedroom uninvited while she worked on her computer. He touched her breast from behind and she immediately struggled with him to stop.
- 11. On or about April 1, 2002, in the early morning, Mr. Patchett entered Ms. Wang's bedroom while she was sleeping. When he lay beside her on the bed, Ms. Wang ran out of the bedroom to a neighbor's house. The neighbor called the police.
- 12. On or about April 2, 2002, Mr. Patchett made many statements about sex, race and national origin to Ms. Wang, including the following:

Sleep with me or I will give you an eviction. You are from China and have psychological problems with men. Sleep with me to overcome your fear of men. You need to bring out the burden of your past. Only sleeping with me, a mature man, will you be able to enter a good marriage with others. Sleep or evict, those are your only choices. Do you know what an orgasm is? No man would like you because you are frigid.

After Mr. Patchett ended his conversation, Ms. Wang immediately went to the neighbor's house and never returned.

13. On or about April 4, 2002, Ms. Wang called the police to standby while she removed her personal belongings from the subject property. She was afraid to go there alone. The police report noted the following:

Suspect Patchett indicated that [Ms. Wang] was somewhat unstable and that because of her nationality 'you could not believe anything she was saying.' Suspect further indicated that it was his feeling he should notify the Immigration and Natural Services and have her deported.... Suspect Patchett's comment to me was, 'I am a retired scientist. Who do you think they're going to believe? Me or somebody like her?'

- 14. At all relevant times, Mr. Patchett's conduct created a hostile environment for Ms. Wang by his unwelcome and offensive touching, invasion of privacy and by making demeaning comments about her sex, race and national origin.
- 15. Mr. Patchett committed unlawful discrimination by making unavailable and denying Ms. Wang a dwelling because of her sex, race and national origin and by threatening to evict her if she did not have sex with him in violation of 42 U.S.C. Section 3604(a); 24 C.F.R. Sections 100.50(b)(1) and 100.60.
- 16. Based on the above alleged conduct, Mr. Patchett committed unlawful discrimination against Ms. Wang in the terms, conditions and privileges of the rental of a dwelling, and in the provision of services and facilities in connection therewith because of her sex, race and national origin in violation of 42 U.S.C. Section 3604(b); 24 C.F.R. Section 100.65(a).
- 17. Mr. Patchett committed unlawful discrimination by making statements with respect to Ms. Wang's rental of the subject property that indicated discrimination based on her sex, race and national origin with the intention to discriminate against her based on her race and national origin in violation of 42 U.S.C. Section 3604(c); 24 C.F.R. Section 100.75.
- 18. Mr. Patchett committed unlawful discrimination by causing to be made, printed and published, an advertisement, with respect to the rental of a dwelling that stated, "FEMALE ONLY", indicating a limitation based on sex, and with an intention to make a limitation based on sex, in violation of 42 U.S.C. Section 3604(c); 24 C.F.R. Section 100.75.
- 19. Based on the above-alleged conduct, Mr. Patchett committed unlawful discrimination against Ms. Wang by coercion, intimidation, threats, and interference in the exercise and enjoyment of her rights, granted and protected by Section 818, based on sex, race and national origin. 42 U.S.C. Section 3617; 24 C.F.R. Section 100.400.
- 20. As a result of Mr. Patchett's conduct, Ms. Wang suffered damages including economic loss, inconvenience, physical and emotional distress, and loss of an important housing opportunity.

## III. FINAL INVESTIGATIVE REPORT

This Charge is supported by evidence gathered by HUD investigators and documented in a Final Investigative Report. A copy of this Final Investigative Report will be provided to any aggrieved person or to any Respondent upon written request for such to Chuck Hauptman, Director, Enforcement Center, Office of Fair Housing and Equal Opportunity, Philip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102. The telephone number for that office is (415) 436-6568.

## IV. CONCLUSION

WHEREFORE, the Secretary, through the Office of the Assistant General Counsel for the Pacific/Hawaii Office, and pursuant to Section 810(g)(2)(a) of the Act, hereby charges Respondent with engaging in discriminatory housing practices, in violation of Section 804 and 818 of the Act [42 U.S.C. Sections 3604 and 3617], and prays that an order be issued that:

- 1. Declares that the discriminatory housing practices of Respondent, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-19;
- 2. Enjoins Respondent, his agents, employees and successors, and all other persons in active concert or participation with him, from discriminating, because of sex race and national origin, against any person in any aspect of the rental of a dwelling;
- 3. Awards such damages as will fully compensate Complainant for her economic loss, inconvenience, physical and emotional distress and loss of an important housing opportunity, pursuant to 42 U.S.C. § 3612(g)(3), and any other damages to which she is legally entitled;
- 4. Awards a maximum civil penalty of \$11,000 for each discriminatory housing practice found against Respondent pursuant to 42 U.S.C. § 3612(g)(3); and,
- 5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) of the Act.

6. Awards any other damages to which Complainant is legally entitled.

Respectfully submitted,

September 10, 2004 Date

R. Faye Austin Regional Counsel Pacific/Hawaii Office

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