

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

Secretary, United States Department	)	
of Housing and Urban Development,	)	
on behalf of Marisa Fragomeli,	)	
	)	
Charging Party,	)	
	)	
v.	)	HUDALJ No. 11-M-021-FH-8
	)	FHEO No. 01-10-0167-8
Jacqueline Berlinger, Linda Thornberg, & Diane Hunsaker	)	
	)	
Respondents.	)	
	)	
	)	
	)	
_____	)	

**INITIAL DECISION AND CONSENT ORDER**

**I. BACKGROUND**

This matter arose from a complaint of discrimination filed by Complainant Marisa Fragomeli on February 17, 2010, with the United States Department of Housing and Urban Development (hereinafter known as the “Department” or “HUD”), pursuant to the Fair Housing Act as amended in 1988 (hereinafter known as the “Fair Housing Act” or the “Act”).

The Complainant, Marisa Fragomeli, is an aggrieved person within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(i). At all times relevant to the complaint, Complainant and her husband, Frederick Fragomeli, owned a one-half interest in the two-family dwelling located at 74 - 76 Jackson Street, Ansonia, Connecticut (hereinafter known as the “subject property”). After the will of Respondent Berlinger’s deceased spouse, Frank A. Berlinger, was admitted to probate on July 15, 2009, Complainant and her husband became co-owners of the subject property as tenants in common with Respondent Jacqueline Berlinger.

Complainant Fragomeli sought to rent her interest in the subject property in late 2009. In the Charge of Discrimination issued on March 8, 2011, the Department alleged that Respondent Berlinger violated Section 3604(c) of the Act by making discriminatory statements regarding race and familial status to real estate agents and potential tenants, and that Respondents Jacqueline Berlinger, Linda Thornberg and Diane Hunsaker violated Section 3617 of the Act through coercion, intimidation, interference, and retaliation with Complainant's attempts to lawfully rent the subject property. As a result of Respondents' conduct and statements, Complainant suffered compensable injuries due to the delay in renting her unit, including lost rental income, real estate agent fees, and attorney's fees. Moreover, Complainant suffered emotional distress as a result of Respondents' discriminatory statements and interference with her rights under the Fair Housing Act.

Respondents deny they violated the Act as alleged in the Charge of Discrimination, but agree to enter into this Consent Order in settlement of the claims made by Complainant in her complaint in order to avoid the expense and uncertainty of litigation. The entry of this Consent Order shall not be deemed as an admission of fault or liability by Respondents, nor constitute a decision or finding by the Administrative Law Judge that Respondents have engaged in any discriminatory housing practices.

The Secretary, Complainant, and Respondents have consented to the entry of this Initial Decision and Consent Order (hereinafter "Consent Order") as indicated by the signature of the parties and counsel below.

## **II. GENERAL PROVISIONS**

A. The parties acknowledge that this Consent Order is a voluntary and full settlement of the Charge. No party has been coerced, intimidated, threatened, or in any way forced to become a party to the Consent Order. The parties have read and fully understand the significance of all the terms set forth herein.

B. The parties acknowledge that the terms set forth herein are contractual and not merely a recital of the parties' intentions. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations hereunder.

C. The parties and their counsel agree that, in the interest of prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages with the original executed Signature Pages to be attached to the body of this Consent Order to constitute one document.

D. The signatures of the parties to this Consent Order may be executed by way of facsimile transmission and shall be deemed to be an executed and admissible Consent Order for all purposes as may be necessary under the terms of this Consent Order.

E. The parties acknowledge this Initial Decision and Consent Order will become the final agency decision thirty (30) calendar days from the date it is issued by the HUD Administrative Law Judge (HUD ALJ) or earlier, if affirmed by the Secretary within that time. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period, and a waiver of any right to challenge the validity of this Consent Order at any time.

F. The parties and their counsel agree that if the situation arises where a party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained by mutual agreement of the parties and all signatories or their successors in writing.

G. This Consent Order is binding upon Complainant, as well as upon Respondents and their employees, heirs, successors, assigns, and all others working for or associated with Respondents who are involved in the operation of the subject property, including any subsequent owners of the property.

H. Pursuant to 24 C.F.R. § 180.680, the parties understand that this Consent Order shall be a public document.

I. Except as provided herein, the signatures of the parties to this Consent Order further constitute a waiver of any right to apply for additional attorney's fees or costs pursuant to 24 C.F.R. § 180.705.

J. This Consent Order does not in any way limit or restrict the Secretary's authority to investigate any subsequent complaints involving Respondents.

K. Respondents agree and understand that the Department, on request of Complainant, or on its own motion, may review compliance with this Consent Order. Respondents agree to provide full cooperation in any review undertaken by the Department to ensure compliance with this Consent Order.

L. Respondents agree that Respondents' failure to satisfy the terms of this Consent Order is a breach of the Consent Order, which may be enforced in the United States Court of Appeals pursuant to 24 C.F.R. § 180.715.

M. This Consent Order shall remain in effect for a period of five (5) years following the date upon which the Consent Order becomes final.

N. Although Respondents do not admit to any wrongdoing, Respondents hereinafter promise and agree to comply with all provisions of the Fair Housing Act relevant to the subject property and to any other properties owned and/or managed by them.

### **III. SPECIFIC RELIEF**

A. In exchange for the Charging Party's agreement to dismiss this Charge, Respondents Berlinger, Hunsaker, and Thornberg shall jointly pay the total sum of THREE THOUSAND DOLLARS (\$3,000.00) to Complainant for compensatory damages.

B. The first ONE THOUSAND DOLLARS (\$1,000) of the payment described in Paragraph "A" above shall be due on or before ninety (90) days of the entry of this Consent Order by the Administrative Law Judge. The second ONE THOUSAND DOLLARS (\$1,000) of the payment described in Paragraph "A" above shall be due on or before one hundred and eighty (180) days of the entry of this Consent Order by the Administrative Law Judge. The third ONE THOUSAND DOLLARS (\$1,000) of the payment described in Paragraph "A" above shall be due on or before three hundred (300) days of the entry of this Consent Order by the Administrative Law Judge. Respondents shall send the payments to the address given below, with the check or checks made out to Marisa Fragomeli:

Miniard Culpepper, Regional Counsel, Region I  
U.S. Department of Housing and Urban Development  
Office of the Regional Counsel  
Thomas P. O'Neill Federal Building  
10 Causeway Street, Room 310  
Boston, MA 02222-1092

C. As additional consideration for Respondents' payment to Complainant, compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, and for other good and valuable consideration, Complainant agrees to DISMISS her complaint against Respondents Berlinger, Hunsaker, and Thornberg upon receipt of the last of the payments described in Paragraphs "A" and "B" above.

#### **IV. MUTUAL RELEASE**

In consideration for Respondents' payments to Complainant, compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, and for other good and valuable consideration, Complainant, her successors, and assigns hereby forever waive, release, and covenant not to sue Respondents, their successors, heirs, executors, assigns, agents, employees, attorneys, or any subsequent owner of the subject property, with regard to any and all

claims, damages, and injuries of whatever nature arising out of the subject matter of HUDALJ No. 11-M-021-FH-8 and FHEO Case No. 01-10-0167-8, or which could have been filed in any action or suit arising from said subject matter. This Consent Order does not in any way limit or restrict the Secretary's authority to investigate any subsequent complaints involving Respondents.

In consideration of the execution of this Consent Order, and for other good and valuable consideration, Respondents, their successors, assigns, agents, employees, or any subsequent owner of the subject property, hereby forever waive, release, and covenant not to sue the Department or Complainant or their officers, successors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature arising out of the subject matter of HUDALJ No. 11-M-021-FH-8 and FHEO Case No. 01-10-0167-8, or which could have been filed in any action or suit arising from said subject matter.

#### **VI. ADMINISTRATION**

For purposes of this Consent Order, the effective date of this Initial Decision and Consent Order is the date upon which this Initial Decision and Consent Order is signed by the HUD ALJ. This Initial Decision and Consent Order is entered pursuant to 42 U.S.C. § 3612(e) and (g) and the regulations issued thereunder at 24 C.F.R. § 180.450. This Initial Decision and Consent Order shall become final upon the expiration of thirty (30) calendar days from the date of its issuance or affirmation by the Secretary within that time. 24 C.F.R. § 180.670(b)(2).

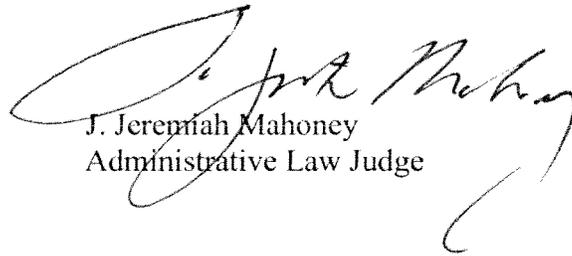
#### **V. AGREEMENT OF THE PARTIES**

All parties have read the foregoing Consent Order, HUDALJ No. 11-M-021-FH-8 and FHEO Case No. 01-10-0167-8, and willingly sign it below with a full understanding of the rights it confers and the responsibilities it imposes on them.

## **VI. ORDER OF THE COURT**

The hearing in this matter was scheduled for June 28, 2011, but the parties notified the court that settlement discussions were underway. In response, the Court suspended the compliance dates specified in the Court's Notice of Hearing and Order. On June 13, 2011, the parties forwarded to the Court the foregoing Initial Decision and Consent Order, incorporating the terms of their settlement agreement. The Court, after examining the agreement finds that it appears to be in the public interest. All parties having signed, the agreement, as incorporated in the foregoing Initial Decision and Consent Order, is accepted.

**So ORDERED**, this 15th day of June 2011.



J. Jeremiah Mahoney  
Administrative Law Judge