

**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 Maribel Concepcion, Henry Alvarez,)	
and Edwin Argueta)	
)	
Charging Party,)	
)	
v.)	HUD ALJ No.
)	FHEO No. 01-09-0290-8
Donna Marti, Trustee, and the)	
Velna Marti Irrevocable Income Trust)	
)	
Respondents.)	
)	
)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On April 16, 2009, Complainant Maribel Concepcion filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that the Respondents discriminated in violation of the Fair Housing Act ("the Act"). 42 U.S.C. § 3601-3619.

The Act authorizes the issuance of a charge of discrimination 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. § 3610(g) (1) - (2). The Secretary of HUD has delegated to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to make such a determination; and to the General Counsel the authority to issue such a charge of discrimination. The General Counsel has redelegated to the Regional Counsel the authority to issue such a charge.

By Determination of Reasonable Cause dated July 8, 2009, the Director of the Fair Housing Hub, Office of Fair Housing and Equal Opportunity for New England, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and has authorized the issuance of this Charge of Discrimination by the Regional Counsel. 42 U.S.C. §3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents with violating the Act as follows:

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any renter because of the familial status of that renter. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a).
2. It is unlawful for any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
3. Complainant Maribel Concepcion is the mother of two minor children, Complainants Henry Alvarez and Edwin Argueta.
4. As a family with children, Complainants enjoy the protections of the Fair Housing Act's familial status provisions. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.
5. During May 2008, Cheryl Brill (hereinafter "Brill") was employed under a yearly contract as an independent contractor of RE/MAX Five Star, owned and operated by Thomas Clarkin. A business card from RE/MAX list Brill as a realtor and Wally Wetherbee (hereinafter "Wetherbee") as an administrator. The business card also lists a website: www.cherylandwally.com, which prominently features the RE/MAX logo.
6. Upon information and belief, Brill is licensed to sell real estate while Wetherbee is not a licensed realtor but is an accredited staging professional. Upon information and belief, at all times relevant to the complaint, Wetherbee was both Brill's husband and her assistant in real estate transactions.
7. The single-family property at 156 Laurens Street, Cranston, Rhode Island 02920 was at all relevant times held in legal title by the Respondent Velna Marti Irrevocable Income Trust.
8. Upon information and belief, Respondent Donna Marti (hereinafter "Respondent Marti") is the trustee and beneficiary of the Respondent Velna Marti Irrevocable Income Trust. As trustee, Respondent Marti was responsible for renting the property at 156 Laurens Street and had previously rented the property on multiple occasions.

9. During the month of March 2008, Respondent Marti contacted Brill and Wetherbee to represent her in the rental of the property at 156 Laurens Street. Respondent Marti had used Brill and Wetherbee on at least two previous occasions to rent the property.
10. Respondent Marti instructed Wetherbee to restrict the rental to applicants with no children.
11. Respondent Marti insisted upon this restriction because of alleged problems her mother, who lived next door, experienced with previous renters with children.
12. Wetherbee posted an advertisement for 156 Laurens Street on Craigslist.com and put a "for rent" sign in the property's yard. The advertisement read: "This is an immaculate spacious 3-bedroom house for rent. It has double parlor, eat-in kitchen, porch and garage. No cats, dogs or children please." The advertisement also included a phone number and a picture of the property.
13. Craigslist is an internet forum featuring free online classified sections, including one section devoted solely to housing.
14. During May 2008, Complainant Concepcion began a search for housing for herself and her two children.
15. During this time, Complainant Concepcion called the number listed on the Craigslist advertisement and left a voice message indicating her interest.
16. When Wetherbee returned Complainant Concepcion's call, Wetherbee refused to show her the property and informed her that the owner would not rent to families with children.
17. Subsequent to this conversation, Respondents rented the property at 156 Laurens Street to a group of three men.
18. Under these circumstances, Respondents' refusal to rent to Complainants constitutes a violation of 42 U.S.C. § 3604(a).
19. By making discriminatory statements and causing discriminatory statements and advertisements to be made by Wetherbee with respect to the rental of a dwelling, Respondent Marti violated the Act. 42 U.S.C. § 3604(c).
20. As trustee, Respondent Marti's actions in making and causing to be made discriminatory statements with respect to the rental of a dwelling subject the Respondent Velna Marti Irrevocable Income Trust to liability under the Act.

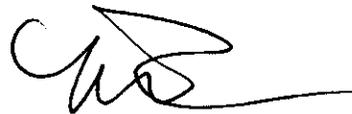
21. Brill and Wetherbee were agents of Respondent Donna Marti and the Velna Marti Irrevocable Income Trust, who are vicariously liable for Brill and Wetherbee's violation of the Act.
22. As a result of the Respondents' conduct, Complainants have suffered damages, including economic loss and emotional distress.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a) and 42 U.S.C. § 3604(c) and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. § 3601-3619;
2. Enjoin the Respondents from further violations of 42 U.S.C. § 3604(a) and (c) of the Act;
3. Awards such damages as will fully compensate Complainants for any economic loss and emotional distress caused by the Respondents' discriminatory conduct;
4. Awards a civil penalty against Respondents for each violation of the Act pursuant to 42 U.S.C. § 3612(g)(3);
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



Miniard Culpepper
Regional Counsel
for New England

Abraham Brandwein

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C. Ligatti

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Date: 7/8/09

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Charge of Discrimination" in FHEO Case 01-09-0290-8 was served this 8th of July 2009 by federal express upon the following:

Chief Docket Clerk
Office of Administrative Law Judges
U.S. Department of Housing and Urban Development
409 3rd Street, S.W., Suite 201
Washington, DC 20024

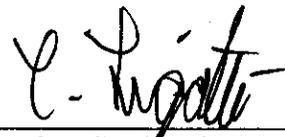
Donna Marti
6 Harvest Road
Warwick, RI 02888

Velna Marti Irrevocable Income Trust
6 Harvest Road
Warwick, RI 02888

and by certified mail upon the following:

David T. Anderson, Director
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