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 Brenda Santana Charging Party, v. Lothar Riba, Respondent.	)	FHEO No. 01-10-0118-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On December 29, 2009, Brenda Santana ("Complainant") filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Lothar Riba ("Respondent") discriminated against her in violation of the Fair Housing Act ("the Act"). 42 U.S.C. Sections 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. Sections 3610(g)(1) and (2).

By Determination of Reasonable Cause dated June 9, 2010, 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). Although Complainant has a case pending in federal court based on the same facts as alleged in this Charge and the trial in this case has not yet begun, the Act permits a charge to be issued pursuant to 42 U.S.C. §3610(g)(4).

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 Respondent with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful for any person to make any statement with regard to the sale or rental of the dwelling that indicates any preference, limitation, or discrimination based on

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(a).

2. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act. 42 U.S.C. Section 3617; 24 C.F.R. Sections 100.400(b) and (c)(1-2).

B. PARTIES AND SUBJECT PROPERTY

3. Complainant Brenda Santana is a Caucasian female.

4. Complainant's husband, Robert Santana, is of Hispanic origin.

5. Respondent Lothar Riba is the owner of, and personally resides in, a four-unit multi-family property located at 53 Main St. in Monroe, New Hampshire.

C. FACTUAL ALLEGATIONS

6. On October 11, 2008, Complainant and her husband signed a lease with Respondent to rent one of the apartments in Respondent's property.

7. On or about the day the lease was signed, Complainant asked Respondent for permission to allow her husband's sister, Complainant's sister-in-law, to stay at Complainant's apartment for three to four weeks while visiting from out of the country.

8. In the course of denying Complainant's request, Respondent stated, "if one comes, they all start coming like a bunch of cockroaches," clearly using that derogatory epithet on the assumption that Complainant's sister-in-law was of Hispanic origin.

9. In late 2008, while purporting to repair Complainant's window sill over the course of several weeks, Complainant on a number of occasions noticed Respondent using such repairs as an excuse to look into Complainant's apartment in an obvious attempt to monitor the activities of Complainant and her family.

10. In the spring of 2009, Respondent concealed himself behind bushes to watch Complainant while she was outside of the building.

11. On or around July 4, 2009, Respondent hid behind a pillar on the side of the apartment building and took photographs of Complainant and her family.

12. On or about July 25, 2009, Complainant noticed that her unit's window handles had been removed. When asked by Complainant about the missing handles and Respondent's entry into her unit without notice, Respondent admitted removing the window handles.

13. During the course of this discussion, Respondent ordered Complainant to get her "monkey" family off of his property, using a derogatory epithet in reference to Complainant's husband's national origin.

14. Also during this discussion, Respondent assaulted Complainant by roughly grabbing her finger, injuring Complainant so badly that Complainant sought emergency treatment at Cottage Hospital in Benton, New Hampshire.

15. On July 27, 2009, Complainant filed two civil petitions against Respondent in the Littleton, New Hampshire District Court. In the first, she sought relief for stalking and assault, and in the second, she sought relief for Respondent's unauthorized entry into Complainant's apartment, and his seizure of possessions therefrom.

16. On December 25, 2009, in rendering a decision in Complainant's favor in regard to both petitions, the court specifically found that Respondent stated that Complainant's family were "like cockroaches" and that Respondent told Complainant to get her "monkey" family off of his property.

17. In ruling in Complainant's favor, the court also accepted as true Complainant's claims that Respondent had photographed her while concealed; monitored Complainant and her family's activities; removed her unit's window handles; and inflicted injury to Complainant's finger.

D. FAIR HOUSING ACT VIOLATIONS

18. Respondent's statements denying Complainant's request to have her sister-in-law temporarily reside at the apartment because "if one comes, they all start coming like a bunch of cockroaches" and instructing her to get her "monkey" family off of his property violated Section 804(c) of the Act by indicating a "preference, limitation, or discrimination based on . . . national origin." 42 U.S.C. Section 3604(c).

19. Respondent's watching and photographing Complainant and her family, entering Complainant's apartment without notice or permission, and physically injuring Complainant violated Section 818 of the Act by "intimidating, threatening, or interfering with Complainant in the exercise or enjoyment of, or on account of h[er] having exercised or enjoyed, any right granted or protected by Section 803, 804, 805, or 806 of Title VIII of the Fair Housing Act." 42 U.S.C. Section 3617.

20. As a result of Respondent's statements and conduct, Complainant has 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. Section 3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. Sections 3604(c) and 3617 and prays that an order be issued that:

A. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. Sections 3601-3619;

B. Enjoins Respondent from further violations of 42 U.S.C. Sections 3604(c) and 3617;

C. Awards such damages as will fully compensate Complainant for her economic losses and emotional distress caused by each of Respondents' statements and actions in violation of 42 U.S.C. Sections 3604(c) and 3617;

D. Awards a civil penalty against Respondent for each violation of the Act pursuant to 42 U.S.C. Section 3612(g)(3);

E. Awards such additional relief as may be appropriate under 42 U.S.C. Section 3612(g)(3).

Respectfully submitted,

Miniard Culpepper
Regional Counsel
for New England

Abraham Brandwein
Abraham Brandwein
Associate Regional Counsel for
Fair Housing, Personnel, and
Administrative Law

Benjamin Gworek
Benjamin Gworek
Legal Honors Fellow

Office of Regional Counsel
Department of Housing and Urban Development
10 Causeway St., Rm. 310
Boston, MA 02222
(617) 994-8250

Date: June 9, 2010

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Charge of Discrimination" in FHEO Case 01-10-0118-8 was served this 10th of June 2010, 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

Lothar Riba
53 Main St.
Monroe, NH 03771

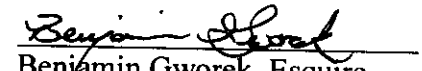
Brenda Santana
c/o Ruth Heintz
New Hampshire Legal Assistance
271 Main St.
Littleton, NH 03561

Jason R.L Major
Douglas, Leonard & Garvey, P.C.
6 Loudon Road, Suite 502
Concord, NH 03301

Ruth Heintz
New Hampshire Legal Assistance
271 Main St.
Littleton, NH 03561

and by regular mail upon the following:

David T. Anderson, Director
Office of Hearings and Appeals
U.S. Department of Housing and Urban Development
409 3rd Street, S.W., Suite 201
Washington, DC 20024



Benjamin Gworek, Esquire
Department of Housing and Urban Development
10 Causeway Street, Room 310
Boston, MA 02222-1092
(617) 994-8252