

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS**

)
The Secretary, United States Department of
)
Housing and Urban Development,
)
on behalf of _____
)

Charging Party

v.

)
The Home Loan Auditors, LLC; Century Law
)
Center, LLC; SOE Assistance Center, Inc.;
)
Omar Alcaraz; Araceli Castro; Hortencia Leon;
)
Raul Luna; David Spieker; Faustina Zendejas;
)
Laura Vargas Zendejas; Elena Ramirez; and
)
Leilani Anderson
)

Respondents

HUDOHA No. _____

FHEO No. 09-11-0390-8

FHEO No. 09-11-0391-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

Complainants _____ filed verified complaints with the Department of Housing and Urban Development (“HUD”) on August 12, 2010 and amended them on December 22, 2011. Complainant _____ complaint was subsequently amended on July 8, 2014 to add his wife _____ and daughter _____ as Complainants. Complainant _____ complaint was subsequently amended on September 29, 2015 to add his partner, _____ as a Complainant and minor children _____ as aggrieved persons. Complainants allege that Respondents discriminated against them based upon national origin in violation sections 804(a)-(b), 805, and 818 of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b), 3605, and 3617. Specifically, Complainants allege that Respondents discriminated against them by targeting them for illegal or unfair loan audit and loan modification assistance because of their national origin. Complainants allege that as a result of this discrimination they were diverted from obtaining legitimate assistance, their credit was damaged, and foreclosure proceedings were brought against them.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §3610(g)(1)-(2). The

Secretary has delegated that authority to the General Counsel (24 C.F.R. § 103.400 and 103.405), who has delegated that authority to the Associate General Counsel for Fair Housing and the Assistant General Counsel for Fair Housing Enforcement. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

By a Determination of Reasonable Cause and No Reasonable Cause issued contemporaneous with this Charge of Discrimination, the Regional Director of the Office of Fair Housing and Equal Opportunity for Region IX has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case and has authorized and directed the issuance of this Charge. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaints and Determination of Reasonable Cause and No Reasonable Cause, Respondents are hereby charged with violating the Act as follows:

A. Legal Authority

1. It is unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of national origin. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(3), 100.70(b).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of national origin. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2), (3); 100.65(a); 100.70(b).
3. It is unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of national origin. 42 U.S.C. § 3605; 24 C.F.R. §§ 100.110(b), 100.120; 100.130.
4. A "residential real estate-related transaction" includes the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling or secured by residential real estate. 42 U.S.C. § 3605(b).
5. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by sections 804 or 805 of the Act. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(2).

B. Parties and Properties

i. Complainants

6. Complainant [REDACTED] is a Hispanic, foreign-born, Spanish-speaking homeowner who has limited-English proficiency. At all relevant times, Complainant [REDACTED] could read only basic words in English. He is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

7. [REDACTED] is the spouse of Complainant [REDACTED] with whom she lived at all relevant times. She is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

8. [REDACTED] is the daughter of Complainant [REDACTED], with whom she lived at all relevant times. She was a minor at the time of the events giving rise to this action. She is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

9. Complainant [REDACTED] is a Hispanic, foreign-born, Spanish-speaking homeowner who has limited-English proficiency. At all relevant times, he could not read in English. He is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

10. [REDACTED] is the partner of Complainant [REDACTED] with whom she lived at all relevant times. She is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

11. Complainant [REDACTED] has two minor children, [REDACTED] and they lived with him at all relevant times. They are aggrieved persons, as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

ii. Respondents

12. Respondent The Home Loan Auditors, LLC (“THLA”) is a canceled California limited liability company. THLA was an active limited liability company, authorized to carry out business activities in California, from December 18, 2008 through November 17, 2009. THLA’s business included engaging in mortgage loan audit and modification activities. THLA’s principal places of business were 1400 Mitchell Road, Modesto, CA 95351 and 1416-B Mitchell Road, Modesto, CA 95351, but it was registered at 1941 Mitchell Road, Suite F, Ceres, CA 95307.

13. Respondent Century Law Center, LLC (“CLC”) is a canceled California limited liability company. CLC was an active limited liability company, authorized to carry out business activities in California, from June 19, 2009 through November 17, 2009. CLC’s business included engaging in mortgage loan modification activities. CLC’s principal place of business was 1416-B Mitchell Road, Modesto, CA 95351.

14. Respondent SOE Assistance Center, Inc. ("SOE") is a California corporation that was suspended by the California Franchise Tax Board for failure to meet tax requirements. SOE was an active corporation, authorized to carry out business activities in California, beginning on November 10, 2009. SOE engaged in mortgage loan modification activities. SOE's principal place of business was 1416-B Mitchell Road, Modesto, CA 95351.
15. Respondent Omar Alcaraz was a part owner of THLA and one of THLA's Vice Presidents of Marketing. Among other duties, Respondent Alcaraz recruited new sales representatives and carried out direct mail marketing campaigns for THLA.
16. Respondent Araceli Castro was Vice President of Operations and a part owner of THLA. After THLA dissolved, she maintained possession of THLA's client files. She also had an ownership interest in CLC. In addition, Respondent Castro was a director, founder, and Chief Executive Officer of SOE. Respondent Castro's duties for each of these business entities included processing home loan-related documents.
17. Respondent Hortencia Leon was a part owner of THLA and one of THLA's Vice Presidents of Marketing. Respondent Leon's duties included appearing in a twice-weekly radio show that marketed THLA's services on a Spanish language radio station and appearing in THLA's Spanish language promotional videos.
18. Respondent Raul Luna was the founder of THLA and acted as THLA's Chief Executive Officer and Chief Financial Officer. He was also the founder of CLC. Raul Luna was the only licensed real estate broker employed by or associated with THLA and CLC. Among other things, Respondent Raul Luna decided on the form, content, and media of THLA's marketing and publicity. Respondent Luna also trained THLA staff.
19. Respondent David Spieker is a California attorney who worked as a contract attorney for THLA and as an employee of CLC. Respondent Spieker's duties at both businesses included communicating with banks and processing home loan-related documents.
20. Respondent Faustina Zendejas, sister-in-law to Respondent Laura Vargas Zendejas, was employed by THLA. Her duties included conducting meetings with prospective and new clients.
21. Respondent Laura Vargas Zendejas, sister-in-law to Respondent Faustina Zendejas, was employed by THLA. Her duties included conducting meetings with prospective and new clients.
22. Respondent Elena Ramirez, sister of Respondent Araceli Castro, was employed by THLA and CLC and was a part owner of SOE. Respondent Ramirez's duties at all three businesses included processing home loan-related documents.
23. Respondent Leilani Anderson was employed by THLA and CLC. At both business, she conducted client meetings and processed home loan-related documents.

24. At all relevant times, Respondents were engaged in residential real estate-related transactions.

iii. Dwellings

25. [REDACTED] Oakland, CA 94621 is a single-family house previously owned by Complainant [REDACTED]. Complainant [REDACTED] operated this home as a rental property. He acquired the house prior to 2009 and lost it to foreclosure on or about March 9, 2010. This house is a “dwelling” within the meaning of the Act, 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

26. [REDACTED] Oakland, CA 94605 is a single-family house owned by Complainant [REDACTED]. At all relevant times, Complainant [REDACTED] resided at this house, which is a “dwelling” within the meaning of the Act, 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

27. [REDACTED] Oakland, CA 94601 is a single-family house previously owned by Complainant [REDACTED]. Complainant [REDACTED] operated this home as a rental property. He acquired the house prior to 2009 and lost it to foreclosure on or about September 10, 2010. This house is a “dwelling” within the meaning of the Act, 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

28. [REDACTED] Oakland, CA 94601 is a single-family house owned by Complainant [REDACTED]. At all relevant times, Complainant [REDACTED] resided at this house, which is a “dwelling” within the meaning of the Act, 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

C. Factual Allegations

i. Respondents’ Practices

29. THLA and its staff falsely marketed its services as capable of reducing a borrower’s principal, interest, and monthly payments. In presentations at recruitment sessions, Respondent Luna represented to borrowers that THLA would modify home loans. THLA’s direct mail solicitation suggested that THLA could reduce monthly payments and loan balances.

30. THLA created multiple Spanish language promotional videos indicating that THLA could reduce a borrower’s principal, interest, and monthly payments. In one video, Respondent Leon urged the viewer, in Spanish, to call THLA and join the hundreds of people who had reduced their debt, interest, and monthly payments. A purportedly satisfied former THLA client was featured stating that THLA reduced his debt from \$350,000 to \$172,000. In another video, Respondent Leon interviewed the same man who thanked THLA for reducing his principal, monthly payments, and interest rates. That same video included a written testimonial from another purported client who expressed that Respondent Castro helped her avoid losing her home.

31. THLA made false representations to lure homeowners to use its forensic home loan audit services. For example, a THLA PowerPoint presentation indicated that THLA would carry out a

loan audit to provide homeowners with evidence so that their home could be saved. One THLA promotional video featured a caption, in Spanish, that stated “REMEMBER A LOAN MODIFICATION WITHOUT AN AUDIT IS LIKE GOING TO COURT WITHOUT EVIDENCE!!!”(emphasis in original).

32. Home loan audits are useless in securing a loan modification or any other foreclosure relief. In 2010, the Federal Trade Commission found that forensic home loan audits cannot help homeowners get a loan modification or any other foreclosure relief.

33. The State Bar Court of California in 2013 and the California Department of Real Estate in 2011 and 2012 determined that Respondents THLA, CLC, SOE, Luna, Castro, Leon, Alcaraz, Ramirez, and Spieker engaged in unlawful conduct in violation of a number of California laws for their activities relating to loan modification and forensic loan audit services. Respondent Spieker acknowledged to the State Bar Court of California that he accepted unearned fees and failed to perform services of value for Complainants.

34. THLA, CLC and SOE targeted Hispanic borrowers for unfair and illegal loan modification and/or forensic home loan audit services.

35. THLA, CLC, and SOE’s marketing materials were predominantly in Spanish, in contrast to their contracts and other operative documents that were predominantly in English. THLA, CLC, and SOE each utilized Spanish language direct mail solicitation and/or radio advertising. THLA’s advertisements also included promotional videos and live PowerPoint presentations in Spanish. THLA, CLC, and SOE clientele and staff were overwhelmingly Hispanic.

36. Respondents who communicated directly with Complainants did so only in Spanish. THLA staff required Complainants to sign English-language documents they knew Complainants could not read, and Respondents Laura Vargas Zendejas and Faustina Zendejas falsely certified that the documents had been translated. All CLC forms outlining CLC’s responsibilities were in English whereas the form outlining Complainants’ responsibilities was in Spanish.

ii. Solicitation Letter

37. In the Spring of 2009, THLA directly solicited Complainant [REDACTED] for its services by sending him a Spanish-language solicitation letter (“Solicitation Letter”) with false and misleading information. As translated, the Solicitation Letter was entitled Notice of Bank Investigation and identified THLA as the investigator. The Solicitation Letter, drafted on an official-looking form, stated in Spanish, in relevant part:

**Notice Regarding FRAUDULENT MORTGAGE PRACTICES
IMMEDIATE PARTICIPATION REQUIRED**

[REDACTED] your bank **Greenpoint Mtg Fndg** is currently under investigation for fraudulent mortgage practices. Based on our information, you can be a victim of

this act, and you can qualify for a lawsuit against them. As part of the lawsuit, the homeowner can:

- Stop the foreclosure
- Reduce your monthly payments
- Reduce the balance owed on your loan
- Repair your credit score
- Receive monetary compensation

Previously, we attempted to contact you and this is the final notice that you will receive. Due to legal limitations, the time for participation is very limited. It is *extremely important* that you contact us in the next 24 hours....**FAILURE TO RESPOND TO THIS LETTER CAN AFFECT YOUR LEGAL RIGHTS.**

(emphasis in original).

38. Many statements in the Solicitation Letter were false, including that GreenPoint Mortgage Funding was being investigated for fraudulent mortgage practices by THLA and that failure to respond could affect one's legal rights.

39. Respondents Luna and Alcaraz distributed the Solicitation Letter to THLA representatives for use in marketing THLA's services.

40. Complainant [REDACTED] shared the Solicitation Letter with his friend Complainant [REDACTED] as both Complainants had mortgages originated by GreenPoint Mortgage Funding.

iii. Complainant [REDACTED]

41. On May 30, 2009, in response to THLA's Solicitation Letter, Complainant [REDACTED] visited THLA's office. During this visit, Complainant [REDACTED] met with Respondents Faustina Zendejas and Laura Vargas Zendejas, who promised him that THLA could reduce his payments and interest and adjust his loans to the current market value on both of his properties. Respondents Faustina Zendejas and Laura Vargas Zendejas showed Complainant [REDACTED] a Spanish language testimonial video featuring people talking about how THLA had helped them.

42. At that initial meeting, Complainant [REDACTED] signed a number of documents written in English, including documents granting THLA power of attorney regarding the mortgages on both of his properties and client service agreements. Complainant [REDACTED] agreed to pay \$10,000 for THLA's services, and he signed an authorization for THLA to bill his credit card for the first of four monthly installments of \$2,500 (\$1,250 for each of his properties).

43. THLA staff told Complainant [REDACTED] not to communicate directly with his bank and to stop paying his mortgages to facilitate the loan modification process. Accordingly, Complainant [REDACTED] stopped making payments on his mortgages immediately after hiring THLA. Prior to

THLA's involvement, Complainant [REDACTED] had been current on the mortgage payments for both of his houses.

44. On June 1, 2009, Respondent Spieker wrote a letter to Complainant [REDACTED] bank expressing interest in reformation of Complainant [REDACTED] loan and stating: "Please direct all future communications regarding this loan to this office. You are not to contact the borrowers, except through this office."

45. In August 2009, Complainant [REDACTED] returned to THLA's office because he had started receiving notices that his houses were in foreclosure. At that point, Complainant [REDACTED] was assigned to and began working directly with Respondent Ramirez.

46. On or about August 24, 2009, CLC mailed Complainant [REDACTED] a Spanish-language letter, stating that CLC lawyers were now handling his mortgages, so THLA was returning his monthly payment, which should instead be paid to CLC.

47. On or about October 13, 2009, Complainant [REDACTED] met with Respondent Ramirez, who told Complainant [REDACTED] to sign a CLC contract and CLC forms so work could proceed on his mortgages. These forms required Complainant [REDACTED] to send all mortgage-related documents that he received to CLC within five days of receipt and to direct any calls from his bank to CLC. Complainant [REDACTED] also certified that if he communicated directly with his bank, he would be breaking his contract with CLC, and CLC's services would be terminated. The CLC paperwork indicated that Complainant [REDACTED] retained CLC for a loss mitigation process, which may include lowering the principal balance or interest rate.

48. Thereafter, Complainant [REDACTED] received several foreclosure notices and went to CLC on several occasions. He usually waited for hours to see someone or was told that no one was available. When he was able to meet with CLC staff, they told him to disregard his foreclosure notices.

49. Complainant [REDACTED] ultimately paid THLA and CLC a combined total of \$10,000.

50. THLA staff promised, but never provided, forensic loan audits to Complainant [REDACTED]

51. In November 2009, without informing Complainant [REDACTED], THLA and CLC both formally dissolved as companies.

52. In late December 2009, Respondent Ramirez told Complainant [REDACTED] that she negotiated foreclosure forbearance agreements for his rental and owner-occupied properties. Neither foreclosure forbearance agreement lowered the principal, interest, or monthly payment on the existing mortgage; rather, they only suspended or delayed foreclosure so long as Complainant [REDACTED] was paying off some of his delinquent debts. Aside from payments towards the arrearage, the agreements included a number of fees to be paid to the banks.

53. On or about January 21, 2010, Complainant [REDACTED] received a letter in Spanish from SOE stating that THLA and CLC had closed. The letter said that SOE was created to assist the Hispanic community, and it offered Complainant [REDACTED] assistance with his mortgage modifications for an upfront fee of \$495, characterized as a "mandatory donation." Around the same time, Respondent Ramirez told Complainant [REDACTED] that SOE would not continue to assist him unless he paid \$495. Complainant [REDACTED] did not pay the fee or otherwise respond to the letter.

iv. Complainant [REDACTED]

54. Complainant [REDACTED] visited THLA's offices on or about June 12, 2009 after receiving the Solicitation Letter. There he met with Respondents Anderson, Faustina Zendejas, and Laura Vargas Zendejas. Complainant [REDACTED] signed a number of documents written in English, including documents granting THLA power of attorney regarding the mortgages on both of his properties and client service agreements. He also signed an authorization for THLA to bill his credit card for the first of four monthly installments of \$2,500 (\$1,250 per property).

55. Respondent Faustina Zendejas told Complainant [REDACTED] that THLA would be able to lower his monthly payments, interest rates, and principal by thirty to forty percent. THLA staff told Complainant [REDACTED] that he needed an audit, that errors were always found in the lending practices during the audit, and that THLA would use the results from the audit to put pressure on his bank. Respondents Anderson and Laura Vargas Zendejas told Complainant [REDACTED] that THLA's attorneys would audit his loan documents to find legal violations and negotiate on his behalf to reduce his mortgage. Respondent Faustina Zendejas advised Complainant [REDACTED] to stop paying his mortgages to facilitate the loan modification process. Respondent Faustina Zendejas also told Complainant [REDACTED] that he needed to stop all communication with his bank or else he would be breaking the THLA contract.

56. In July 2009, Complainant [REDACTED] banks sent him default and foreclosure notices for both of his properties. When he called THLA, Respondent Faustina Zendejas told him that he should not be concerned because THLA often stopped foreclosures at the last minute and THLA staff knew what they were doing.

57. On or about August 5, 2009, Complainant [REDACTED] went to THLA's office. He met with Respondent Faustina Zendejas who told him that THLA's legal department had separated into its own company - CLC. CLC staff instructed Complainant [REDACTED] to sign numerous forms, in English, but to continue making his payment to THLA. These forms indicated that Complainant [REDACTED] retained CLC for a loss mitigation process, which may include lowering the principal balance or interest rate. Complainant [REDACTED] also signed a form, in Spanish, requiring him to send all mortgage-related documents that he received to CLC within five days of receipt, to direct any calls from his bank to CLC, and to acknowledge that if he communicated directly with his bank, he would be breaking his contract with CLC and CLC's services would be terminated.

58. On or about September 8, 2009, Complainant [REDACTED] went back to THLA because he was growing concerned about losing his properties. He was told that he needed to sign

additional paperwork in order for CLC to continue to work on his case, so he signed additional English-language forms. He was subsequently told that he needed to make his final \$2,500 payment to CLC instead of THLA.

59. Complainant [REDACTED] ultimately paid THLA and CLC a combined total of \$10,000.

60. THLA staff promised, but never provided, forensic loan audits to Complainant Hernandez.

61. Complainant [REDACTED] was subsequently told that Respondent Anderson had arranged temporary repayment agreements with Complainant [REDACTED] bank. Complainant [REDACTED] however, never received any documentation regarding these agreements. The temporary repayment agreements did not reduce the principal, interest, or monthly payments on Complainant [REDACTED] mortgages.

62. On or about December 8, 2009, December 14, 2009, and January 21, 2010, SOE sent Complainant [REDACTED] letters in Spanish stating that THLA and CLC were no longer in business but that SOE could provide loan modification assistance. The third letter stated that SOE was created "to assist our Hispanic community" with loan modifications and that a "minimum donation" of \$495 was required to obtain SOE's services. Complainant [REDACTED] refused to pay SOE.

63. As a result of Respondents' discriminatory conduct, Complainants and their families suffered actual damages, including fees for unlawful loan audit and modification related services, bank penalties, and emotional distress.

D. Legal Allegations

64. As described above, Respondents discriminated against Complainants by making dwellings unavailable because of national origin in violation of subsection 804(a) of the Act. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(3), 100.70(b).

65. As described above, Respondents discriminated against Complainants in the provision of services or facilities in connection with the sale or rental of a dwelling in violation of subsection 804(b) of the Act. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2), (3); 100.65(a); 100.70(b).

66. As described above, Respondents discriminated against Complainants in making available residential real estate-related transactions, and in the terms or conditions of such transactions, because of national origin. 42 U.S.C. § 3605; 24 C.F.R. §§ 100.110(b); 100.120; 100.130.

67. As described above, Respondents interfered with Complainants' exercise or enjoyment of rights granted or protected by sections 804 and 805 of the Act in violation of section 818 of the Act. 42 U.S.C. § 3617; 24 C.F.R. §§100.400(b) and (c)(2).

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (b), 3605, and 3617, and requests that an Order be issued that:

1. Declares that Respondents' discriminatory housing practices, as set forth above, violate the Act, 42 U.S.C. §§ 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all persons in active concert or participation with them from discriminating against any person because of national origin in any aspect of the sale or rental of a dwelling, including services in connection therewith, and/or in any residential real estate-related transaction;
3. Awards such damages as will fully compensate Complainants and their families for any and all damages caused by Respondents' discriminatory conduct;
4. Assesses a civil penalty of \$16,000 against each Respondent for each separate and distinct discriminatory housing practice that Respondent is found to have committed, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671.
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 7th day of January 2016.

Jeanine Worden
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Kathleen M. Pennington
Assistant General Counsel for
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