

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

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Secretary, United States Department of Housing and Urban Development, on behalf of Complainant SouthCoast Fair Housing, Inc.,	)	
	)	
Charging Party,	)	
	)	
v.	)	HUD ALJ No. _____
	)	FHEO No. 01-20-4566-8
	)	
D&D Realty Management, LLC, Augustino Delfarno, Jr., and Ashley Powers,	)	
	)	
Respondents.	)	

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**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On January 13, 2020, SouthCoast Fair Housing, Inc. (“SouthCoast” or “Complainant”) filed a complaint (“Complaint”) with the United States Department of Housing and Urban Development (“HUD”). The Complainant alleges that Respondents D&D Realty Management, LLC; Augustino Delfarno, Jr.; and Ashley Powers (collectively, “Respondents”) engaged in discriminatory housing practices on the basis of familial status in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-19 (“the Act”).

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons 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) and (2). The Secretary has delegated that authority to the General Counsel, who has re-delegated the authority to the Regional Counsel. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director of HUD’s Office of Fair Housing and Equal Opportunity for Region I, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

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

Based on HUD's investigation of the allegations contained in the aforementioned Complaint and Determination of Reasonable Cause, HUD hereby charges Respondents with violating the Act as follows:

### **A. Legal Authority**

1. It is unlawful to refuse to rent or negotiate to rent or otherwise make unavailable or deny a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (b)(2).
2. It is unlawful, because of familial status, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood, or development. 24 C.F.R. §§ 100.70(a) and (c).
3. It is unlawful to make statements or publish advertisements with respect to the rental of a dwelling that indicate any preference, limitation or discrimination based on familial status, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.75(a) and (c)(2).
4. "Familial status" means one or more individuals under the age of eighteen being domiciled with a parent or legal guardian. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.
5. Pursuant to the Act, an "aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
6. Pursuant to the Act, "dwelling" means any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy as a residence by one or more families. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

### **B. Parties and Subject Property**

7. The Complainant is a nonprofit fair housing organization dedicated to promoting fair housing opportunities through educational outreach programs, legal services for victims of housing discrimination, advocacy for distressed homeowners, and housing discrimination testing.
8. The Complainant is an aggrieved person as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
9. Respondent D&D Realty Management, LLC is ("D&D Realty") is registered in the State of Rhode Island as a Limited Liability Corporation. D&D Realty owns and

manages rental properties at 158 Oakland Avenue, in Providence, Rhode Island (“subject property”).

10. Upon information and belief, Respondent Augustino (aka “Gus”) Delfarno, Jr. is a member of D&D Realty and manages the subject property.
11. Respondent Ashley Powers is the property manager for the subject property as well as a contact with whom Complainant’s testers interacted.
12. The subject property is a dwelling as defined by the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

**C. Factual Allegations**

13. On May 16, 2019, Respondents posted a Facebook advertisement for “Completed Remodeled Students Apartments” and which provided a number to reach “Gus” [Respondent Delfarno] at Redacted Phone Number (“Gus’s number”). The advertisement also provided a link to a website, “www.d&drealtymgmt.com” and an email address of “ddrealtystudentrentals@gmail.com”.
14. On June 12, 2019, Complainant’s Tester 1 called the advertised number and spoke with Respondent Delfarno about a two-bedroom unit. Respondent Delfarno told Tester 1 that there was one bedroom available for rental in a three-bedroom unit at 158 Oakland Avenue.
15. On June 14, 2019, Tester 1 called Gus again and asked if the room was still available. Tester 1 later received a text message from Respondent Powers, which advised him that there was a room available at 158 Oakland Avenue on the third floor.
16. Respondent Powers asked if Tester 1 wished to schedule a tour of the property, to which Tester 1 responded “yes” and asked if he could bring his girlfriend, who would be residing in the property with him. Respondent Powers agreed and a tour was scheduled for June 19, 2019.
17. On June 18, 2019, Respondent Powers sent a text message to Tester 1 to confirm the visit to the property.
18. On June 19, 2019, Tester 3 called Gus’s number and spoke to a man who responded to the call. Tester 3 was told that there was one room available in a three-bedroom apartment. Tester 3 asked whether it would be possible for Tester 3 and her boyfriend to visit the room. The man said yes and stated that his daughter Ashley would be in contact.
19. Later on June 19, 2019, Tester 3 spoke with Respondent Ashley Powers and scheduled a tour of the property for June 21, 2019.

20. On June 21, 2019, Tester 3 met with Respondent Powers at the subject property. In response to Tester 3's confirmation that the room would be occupied by Tester 3 and her boyfriend, Respondent Powers stated "that's fine" and stated that an additional \$100 fee for a second occupant would be required.
21. On June 11, 2019, Tester 4 called the number for Gus and left a message indicating he was a student seeking a two-bedroom apartment.
22. On June 18, 2019, Tester 4 was called by Respondent Powers and advised that there was an available room at the subject property. During this conversation, Respondent Powers also stated that she was Respondent Delfarno's daughter, referring to him as "Gus."
23. During the June 18, 2019 phone conversation, Tester 4 informed Respondent Powers that he had "a child" and asked, "is that going to be ok?" Respondent Powers replied, "Unfortunately, we can't allow children," a restriction that was repeated when Respondent Powers stated to Tester 4 that he was the "third person to call with a kid in the last 48 hours but unfortunately they don't rent rooms with children."
24. On June 18, 2019, in response to previous calls from Tester 5, Tester 5 received a call from Respondent Powers and was told that there was one room available at the subject property. Upon being notified by Tester 5 that "the room would be for me and my son if that's all right," Respondent Powers replied, "Ah unfortunately we can't have any children I'm sorry."
25. On June 12, 2019, Tester 6 called Gus's number, stating that she was seeking a two-bedroom unit. The man who answered the call stated that they had only one bedroom available for rental in a three-bedroom unit.
26. On June 17, 2019, Tester 6 called and left a voicemail message requesting to see the bedroom available for rental in the three-bedroom unit described by the man who picked up Tester 6's call.
27. On June 17, 2019, Respondent Powers called Tester 6 to schedule a time to visit the unit. Tester 6 advised Respondent Powers that she was a college student with full custody of her daughter, whereupon Respondent Powers agreed to schedule a tour of the room. Later that evening, Respondent Powers sent Tester 6 a text message stating: "Hi Taylor! I'm sorry but I just spoke with my Dad [Respondent Delfarno] and unfortunately we can't have any children living at the apartments I'm sorry."
28. As a result of Respondents' discriminatory policies and actions, the mission of Complainant was frustrated. Complainant expended time and diverted its resources investigating, testing, and responding to the discrimination. The resources expended on this matter were diverted from other activities.

**D. Fair Housing Act Violations**

29. As described above, Respondents violated Section 804(a) of the Act by discriminating against Testers 4, 5, and 6 based on familial status by refusing to negotiate for the rental of a dwelling, and making housing unavailable to them. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a), (b)(2), 100.70(a) and 100.70(c).
30. As described above, Respondents violated Section 804(c) of the Act by making statements with respect to the rental of a dwelling that indicate any preference, limitation or discrimination based on familial status, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.75(a) and (c)(2).

**III. CONCLUSION**

WHEREFORE, the Secretary of HUD, 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 3604(c) and prays that an order be issued that:

- A. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act, as amended, 42 U.S.C. §§ 3601-3619;
- B. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from discriminating on the basis of familial status against any person in any aspect of the purchase or rental of a dwelling, and from further violations of 42 U.S.C. §§ 3604(a) and 3604(c);
- C. Awards such monetary damages as will fully compensate the Complainant for any and all injuries caused by Respondents' violations of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(i);
- D. Awards a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
- E. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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