

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)
██████████ and her minor children)
)
)
Charging Party,)
)
)
v.)
)
)
Ann A. Wagner, Corey J. Anderson, Scott)
Terveen, Michael J. Terveen and TK)
Properties, LLC,)
)
)
Respondents.)
)
)

HUD ALJ No.

FHEO No. 08-09-0093-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On February 26, 2009, the complainant, ██████████ (hereinafter "Complainant") filed a verified complaint, as amended on May 25, 2009, (hereinafter the "HUD Complaint") with the United States Department of Housing and Urban Development (hereinafter the "Department"), alleging that Respondents Corey J. Anderson, Ann A. Wagner, Scott Terveen, Michael J. Terveen, and TK Properties, LLC (hereinafter "Respondents") violated the Fair Housing Act, as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (hereinafter the "Act"), by discriminating on the basis of race in violation of Sections 804(a), 804(c) and 818 of the Act. 42 U.S.C. §§ 3604(a), (c), 3617.

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 has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (73 Fed.Reg. 68442), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region VIII Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices based on race have occurred in this case, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned HUD Complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents Anderson, Wagner, Scott Terveen, Michael Terveen and TK Properties with discriminating against Complainant [REDACTED], an aggrieved person as defined by 42 U.S.C. § 3602 (i), based on race in violation of the Act as follows:

1. Pursuant to Section 3617, it shall be 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. § 3617; *see also* 24 C.F.R. §§ 100.400 (b), (c) (1-2).
2. Pursuant to Section 3604(a), it shall be unlawful for any person to refuse to sell or rent, or otherwise make unavailable or deny, a dwelling to any person because of race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.60 (b).

The Secretary charges Respondents TK Properties, Anderson, and Wagner with violations of the Act as follows:

3. Pursuant to Section 3604(c), it shall be unlawful for any person to make, or cause to be made any statement with regard to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604 (c); *see also* 24 C.F.R. § 100.75 (a).
4. Complainant [REDACTED] is a Caucasian female.
5. Since at least December 1, 2008, Respondents Anderson and Wagner have been employed by Respondent TK Properties as on-site management personnel of the property commonly referred to as Lakeport Village Apartments, located at 5801 West Christopher Place, Sioux Falls, South Dakota (hereinafter the "Subject Property").
6. Since at least October 2008, Respondent Anderson has been employed by Respondent TK Properties for the purpose of conducting maintenance work at the Subject Property.
7. At all times relevant to this Charge, Respondent Anderson has possessed a key to each residential unit and garage at the Subject Property.

8. At all times relevant to this Charge, Respondents Anderson and Wagner have cohabitated in a unit at the Subject Property.
9. Since at least December 1, 2008, Respondents Anderson and Wagner's residential unit has been provided rent-free as employment compensation by Respondent TK Properties. In addition to a rent free unit, Respondents Anderson and Wagner received a monthly salary.
10. Respondent TK Properties is a limited liability company organized under the laws of the State of South Dakota. Respondent TK Properties was the registered owner of the Subject Property until July 30, 2009.
11. At all times relevant to this Charge, Respondent Scott Terveen, James Terveen and Respondent Michael Terveen were member-managers in Respondent TK Properties.
12. At all times relevant to this Charge, Respondent Scott Terveen assumed the most active role in the business affairs of Respondent TK Properties, including making final business decisions regarding the Subject Property, accepting rent, and issuing lease violations.
13. At all times relevant to this Charge, Respondent Michael Terveen has resided at the Subject Property in unit 207 of building 2.
14. At all times relevant to this Charge, Respondent Michael Terveen's active role in the business affairs of Respondent TK Properties was as member-manager contact person for maintenance matters arising at the Subject Property.
15. The Subject Property consists of three (3) separate apartment buildings with a total of 48 residential units. Each apartment building has three (3) stories containing 16 units.
16. Complainant moved to the Subject Property on June 13, 2003. At all times relevant to this Charge, Complainant [REDACTED] was a single mother residing with her three (3) minor children at the Subject Property.
17. On November 1, 2008, at approximately 2:50 PM, the Sioux Falls Police Department, responded to a telephone call from [REDACTED] regarding an altercation that was taking place in the parking area of the Subject Property. That argument was principally between [REDACTED] husband, [REDACTED], and James Terveen, a member-manager of Respondent TK Properties (herein the November incident).
18. The November incident between [REDACTED] and James Terveen was heated and stemmed from a dispute between the two (2) men regarding a vehicle belonging to the [REDACTED]

19. James Terveen wanted the van moved from the parking spot where it was parked. Present during the November incident were Respondent Wagner (not yet employed by Respondent TK Properties), [REDACTED], [REDACTED], and James Terveen.
20. At the time of the November incident [REDACTED] informed the police that he legally possessed a concealed weapon.
21. Upon the police's arrival, [REDACTED] allowed Officer Carol to remove the gun from his possession. Officer Carol ran a check that showed [REDACTED] had a permit to carry the weapon, and the weapon was returned to him.
22. One week after the November incident, tenant [REDACTED] (hereinafter "[REDACTED]") overheard Respondents Wagner and Anderson referring to the [REDACTED] as "niggers" while further stating that the [REDACTED] possessed a weapon and that other tenants had better "watch your back," or words to that effect.
23. Tenant [REDACTED] heard both Respondents Anderson and Wagner make the above comment, or a similar one, repeatedly, including after December 1, 2008.
24. Tenant [REDACTED] (hereinafter "[REDACTED]") also heard Respondent Wagner make a comment referring to the [REDACTED]'s as "niggers" and that the [REDACTED] possessed a weapon, and other tenants had better "watch your back," or words to that effect after December 1, 2008.
25. Complainant, one of Complainant's minor daughters, and another tenant, [REDACTED] (hereinafter "[REDACTED]"), each heard the above comment or something similar relating to the "niggers" "having guns" from the Respondents Anderson and Wagner, including after December 1, 2008.
26. On December 1, 2008, Respondent TK Properties issued an announcement on company letterhead informing all tenants of the Subject Property that effective December 1, 2008, Respondent Cory Anderson would be the Lakeport Village On-Site Property Manager ("Property manager announcement").
27. Respondent Wagner added her name to the Property manager announcement above Respondent Anderson's name. Respondent Scott Terveen granted Respondent Wagner permission to do so.
28. At the time of the Property manager announcement, Respondents Anderson and Wagner lived in apartment unit 106, Complainant [REDACTED] lived in apartment unit 206, tenant [REDACTED] lived in apartment unit 305 and the [REDACTED] lived in apartment unit 306. Each of the aforementioned units is in building one (1) of the Subject Property.

29. Complainant [REDACTED] therefore lived directly below the [REDACTED] family and one (1) floor above the Respondents Anderson and Wagner.
30. In April 2009, Respondents Anderson and Wagner relocated to a unit in a different building of the Subject Property.
31. In May 2009, Complainant moved from the Subject Property due to the severity of Respondents Anderson and Wagner's conduct, as outlined in this Charge.
32. After the Property manager announcement was released, Respondents Anderson and Wagner told Complainant that neither Respondent liked the [REDACTED] family and that they needed help "getting rid of the niggers."
33. [REDACTED] perceived Respondent Wagner's degrading comments about the [REDACTED] as behavior intended to make other tenants at the Subject Property fearful of the [REDACTED] family.
34. Respondent Wagner also fostered ill will between Complainant and the [REDACTED] by, among other things, telling Complainant that the [REDACTED] hated Complainant [REDACTED] and her children.
35. Respondent Wagner repeatedly made loud and degrading comments about the [REDACTED] within earshot of Complainant [REDACTED], including calling them "niggers," "gang bangers," and stating "mother fuckers have a gun," or words to that effect.
36. Between October 2008 and early January 2009, Complainant filed between five (5) and six (6) complaints with management in order to address the elevated noise level she perceived to be coming from the [REDACTED] apartment.
37. On January 5, 2009, Complainant registered a noise complaint against the [REDACTED] with the manager, Respondent Wagner (the "Noise incident").
38. Respondent Wagner came to Complainant's unit and escorted Complainant to the [REDACTED]'s unit to determine the source of the noise.
39. Upon arriving at the [REDACTED] unit, [REDACTED] told Respondent Wagner and Complainant that [REDACTED] had just returned from the hospital where he had "almost died."
40. Respondent Wagner proceeded to tell [REDACTED], "That's it," "you're done," "I've had enough," "I don't care if he almost died," and "you're out of here!" or words to that effect.
41. Upon leaving the [REDACTED] doorway, Complainant and Respondent Wagner returned to Complainant's apartment.

42. Respondent Wagner urged Complainant to make a false police report stating that the [REDACTED] son tried to attack Complainant. Respondent Wagner told Complainant, "I need your help getting these fucking niggers out of here," or words to that effect. Complainant refused to file a false report with the police.
43. Nonetheless, the Sioux Falls Police were called to the Subject Property by Respondent Wagner who claimed that the [REDACTED] minor son, [REDACTED], had threatened and attacked Complainant [REDACTED]
44. Complainant [REDACTED] was asked by police whether she felt threatened by [REDACTED]. She stated that she did not feel threatened. No charges were filed in the Noise incident.
45. That evening, after the Noise incident, Complainant spoke with the [REDACTED] who informed her that [REDACTED] was on dialysis because of organ failure. Complainant also learned that the earlier noise was caused by [REDACTED] dialysis machine having fallen on the floor. Complainant came to the realization that the [REDACTED] did not hate her or her children, as Respondent Wagner had led her to believe.
46. On or about February 20, 2009, Complainant [REDACTED], [REDACTED], and [REDACTED] and [REDACTED] left the Subject Property and drove to the Sioux Falls Housing and Redevelopment Commission (hereinafter "Housing Authority").
47. While leaving the Subject Property Complainant and [REDACTED], who were driving together, witnessed Respondents Anderson and Wagner intently staring at them as they drove away.
48. At the Housing Authority, Complainant [REDACTED], the [REDACTED] and [REDACTED] spent several hours relaying the discriminatory, intimidating and harassing behavior of Respondents Anderson and Wagner since the Respondents began their employment with Respondent TK Properties.
49. Before leaving the Housing authority Complainant and [REDACTED] were informed that the Denver HUD office was contacted to initiate the fair housing inquiries that led to the issuance of this Charge.
50. Upon returning to her apartment at the Subject Property from the Housing Authority later that day, Complainant [REDACTED] noticed that multiple belongings had been moved since she had left.
51. The moved belongings included Complainant's kitchen cupboard doors having been left open, her laptop screen having been opened, and drawers of cabinets and chests having been opened and rifled through.

52. Complainant believes that Respondent Anderson, having keys to her apartment as the maintenance person and having seen her leaving with [REDACTED] and the [REDACTED], had been in her apartment and gone through her belongings.
53. One day later, February 21, 2009, the [REDACTED] and [REDACTED] reported to the police that neither of their units had any heat (the "Heat incident").
54. Because everyone else residing at the Subject Property appeared to have heat in their units, the [REDACTED] and [REDACTED] believe the lack of heat was intentional.
55. The responding officer, Bridget O'Toole was told by [REDACTED] that the managers were discriminating against the [REDACTED] on the basis of their race, Black.
56. The [REDACTED]'s minor son [REDACTED], informed Officer O'Toole that Respondents Anderson and Wagner had made the comment "niggers upstairs" in reference to the [REDACTED], who, at the time, lived above the Respondents Anderson and Wagner.
57. [REDACTED] also relayed to Officer O'Toole that the managers were calling the [REDACTED] thieves and were threatening people at the Subject Property.
58. Respondents Anderson and Wagner were not present at the Subject Property at the time of the Heat incident. Both Respondents Anderson and Wagner assert that they were in Fargo, North Dakota.
59. Unable to contact Respondent Anderson regarding the Heat incident, the Sioux Falls Police located Respondent Michael Terveen of Respondent TK Properties to take care of the situation.
60. Respondent Michael Terveen was able to get Johnson and the [REDACTED] heat turned back on in their respective units.
61. The same day of the Heat incident, February 21, 2009, Complainant received a telephone text message from Respondent Wagner, "is it true you were with [REDACTED] [REDACTED] yesterday at housing, we have never done anything 2 u or your family-y r u against us?" (the "Text message").
62. Complainant was fearful of Respondents Anderson and Wagner upon receipt of the Text message.
63. Complainant's fear of the Respondents Anderson and Wagner was exacerbated by Complainant having previously received multiple verbal warnings from Respondent Wagner regarding the growing feud between the Respondents Anderson and Wagner, [REDACTED] and the [REDACTED].

64. These previous verbal warnings included, "if you've got our back, we've got your back," and "as long as you don't go against us, you don't have anything to worry about," or words to that effect.
65. Respondent Anderson also told Complainant [REDACTED], "you'd better watch your back [REDACTED] is a liar, causing trouble, she will take that knife and stick it in your back, too," or words to that effect.
66. Complainant had previously been informed that Respondent Anderson had an extensive criminal record, including past violent crimes.
67. Complainant perceived Respondents Anderson and Wagner's communications as a threat of eviction if she did not side with them in the escalating conflict because Respondents Anderson and Wagner were the Subject Property's management.
68. Complainant also perceived Respondents Anderson and Wagner's communication with her as a threat against her or her children.
69. On or about, February 22, 2009, the day following both the Heat incident and the Text message, Complainant [REDACTED] learned that Respondent Wagner had threatened [REDACTED]. Respondent Wagner had left [REDACTED] a vulgarity-laced voicemail message stating that it would take "every ounce in my body" to "take you [REDACTED] out of here," (the "Voicemail").
70. On the following day, Monday, February 23, 2009 [REDACTED] reported the Voicemail to the Sioux Falls Police Department. The police department listened to the Voicemail and recommended that [REDACTED] file for a protective order against Respondent Wagner.
71. Soon after receiving the Voicemail, [REDACTED], along with her friend [REDACTED] (hereinafter '[REDACTED]') met with Respondent Michael Terveen in his unit at the Subject Property for approximately 30 minutes (the "Meeting").
72. During the Meeting, [REDACTED] informed Respondent Michael Terveen that the management, Respondents Anderson and Wagner, were engaging in racism, discrimination, harassment and intimidation directed at tenants of the Subject Property.
73. Respondent Michael Terveen informed [REDACTED] and [REDACTED] that Respondents Anderson and Wagner were accusing [REDACTED] of stalking them.
74. [REDACTED] told Respondent Michael Terveen that her problems with Respondents Anderson and Wagner were derived from her defending the [REDACTED] and from not accepting their frequent derogatory use of the word "nigger" when referring to the [REDACTED]

75. [REDACTED] also played the Voicemail for Respondent Michael Terveen during the meeting.
76. Soon after, [REDACTED] informed the Complainant of the meeting with Respondent Michael Terveen; specifically, that she had relayed the problems that Complainant [REDACTED], the [REDACTED], and [REDACTED] were having with Respondents Anderson and Wagner.
77. Sometime that day, after [REDACTED] and [REDACTED] left Respondent Michael Terveen's apartment, Respondent Michael Terveen telephoned fellow TK Properties member-manager, Respondent Scott Terveen, to inform Respondent Scott Terveen about the Voicemail.
78. Thereafter, Respondent Scott Terveen telephoned Respondent Wagner and informed her that she was being fired from her position as manager of the Subject Property because she was "too much of a liability."
79. Respondent Wagner generated a written petition for her reinstatement and asked tenants of the Subject Property to sign it; about half of the tenants did so.
80. Respondent Scott Terveen explained to Respondent Wagner that if she wanted to continue living rent-free in her shared apartment with Anderson, she would need to continue doing the management work at the Subject Property.
81. No new management has been hired since Respondent Wagner's "firing."
82. Respondent Wagner performed managerial duties after she was "fired." These duties included assisting prospective tenants in the application process, assisting new tenants during the move in process, and continuing her possession of tenant files stored in the apartment she shares with Respondent Anderson.
83. On the day of Respondent Wagner's alleged firing, Respondent Michael Terveen text messaged [REDACTED] stating, "Ann [Respondent Wagner] is fired, watch your tires."
84. [REDACTED] replied, asking whether the Respondents Anderson and Wagner had also been evicted, to which Respondent Michael Terveen replied, "No." [REDACTED] told Respondent Michael Terveen that people were "scared" of the Respondents Anderson and Wagner, and Respondent Michael Terveen replied, "I'm scared too."
85. Around the same time, Respondent Anderson told another tenant, [REDACTED] (hereinafter [REDACTED]), "I'm sick of her [REDACTED] talking shit about my being racist, and if she doesn't stop, I'll punch her in the mouth to shut her up. I'm not afraid to go back to jail. I've been there before and they know me. If I go, I would only do a weekend," or words to that effect. [REDACTED] informed [REDACTED] of what Respondent Anderson had said.

86. Soon after hearing what Respondent Anderson told [REDACTED] Tenant [REDACTED] went to Complainant [REDACTED]'s apartment to tell her about the threats of violence.
87. [REDACTED] then filed for a temporary protective order with the county court against Respondent Anderson; a hearing was scheduled for March 20, 2009 (the "Protection hearing").
88. On four (4) occasions prior to the Protection hearing, Complainant witnessed Respondent Anderson punching his fist while [REDACTED] walked by Respondent Anderson's unit on the way to her vehicle.
89. Also in mid-March 2009, Complainant [REDACTED] overheard Respondent Wagner make deliberate and caustic remarks toward [REDACTED] while [REDACTED] and Respondent Wagner were both in the parking lot of the Subject Property.
90. These remarks included, "dick, you fucking bitch, slut, whore," and "keep your fucking mouth shut," or words to that effect, all while Respondent Wagner shook her fist and extended her middle finger toward [REDACTED].
91. Thereafter Complainant [REDACTED] and [REDACTED] called the police from [REDACTED] apartment. The police came to the Subject Property in response to the call and informed [REDACTED] that until a temporary protection order was in place, Respondent Wagner was free to interact with [REDACTED].
92. In mid-March 2009, Respondent Anderson walked up behind Complainant [REDACTED] and said, "You better watch out or I'll beat the shit out of you too, you better watch out," or words to that effect.
93. On or about March 13, 2009, Complainant [REDACTED] called Respondent Scott Terveen three (3) times, attempting to detail the ongoing race discrimination, harassment and intimidation by Respondents Anderson and Wagner.
94. Unable to speak to Respondent Scott Terveen directly, Complainant left voice messages detailing the ongoing problems with discrimination and intimidation that she was having with Respondents Anderson and Wagner.
95. Complainant called Respondent Scott Terveen again, on March 16 and 24, 2009, and on April 6, 2009, again leaving voice messages. Respondent Scott Terveen did not return any of Complainant [REDACTED]'s phone calls.
96. Complainant also specified in at least one of these voicemail messages that she needed a management signature on her Housing Authority paperwork in preparation for her leaving the Subject Property due to the ongoing harassment.

97. The judge presiding over the Protection hearing elected not to grant the order. However, she stated that if any threat by Respondent Anderson against [REDACTED] occurred after the hearing then the order would be granted.
98. Complainant and [REDACTED] both testified in the Protection hearing.
99. On March 20, 2009, the same day as the Protection hearing, Respondent Wagner approached the wife of [REDACTED] (hereinafter "[REDACTED]") at his residence.
100. While there, Respondent Wagner informed [REDACTED] wife that [REDACTED] was having an affair with Tenant [REDACTED]. Consequently, [REDACTED] wife went into a state of hysteria. [REDACTED] denies having an affair with [REDACTED].
101. At the time of this incident, [REDACTED] was aware of the ongoing discrimination, harassment and intimidation because [REDACTED] had told him about it.
102. The following Monday, March 23, 2009, [REDACTED] telephoned Respondent Scott Terveen in order to complain about Respondent TK Properties employee, Respondent Wagner.
103. [REDACTED] was able to reach Respondent Scott Terveen directly. [REDACTED] relayed Respondent Wagner's conversation with [REDACTED] wife to Respondent Scott Terveen.
104. [REDACTED] specifically attributed Respondent Wagner's probable motivation as being retaliatory, particularly against [REDACTED].
105. [REDACTED] also relayed to Respondent Scott Terveen that Respondents Anderson and Wagner were participating in ongoing racial discrimination toward a Black family living at the Subject Property and consequential harassment and intimidation directed toward white tenants who defended that Black family.
106. [REDACTED] further explained to Respondent Scott Terveen that Respondent TK Properties, as the owner of the Subject Property and as the employer of the Respondents Anderson and Wagner, would be responsible for Respondents Anderson and Wagner's conduct.
107. Respondent Scott Terveen told [REDACTED] that he knew there were problems with the management at the Subject Property. Respondent Scott Terveen apologized for Respondent Wagner's behavior toward [REDACTED] wife and told [REDACTED] that he would, "Take care of it," or words to that effect.
108. Respondent S. Terveen did not state that Respondent Wagner was not employed by Respondent TK Properties during his conversation with [REDACTED]

109. Meanwhile, Respondents Anderson and Wagner continued to intimidate Complainant and Complainant's children by routinely staring them down when they were in the common areas of the Subject Property.
110. Also, over the course of several weeks after the March 20th Protection hearing Complainant overheard repeated comments from Anderson made while on the deck of his unit. These comments included: "fucking cunts," "fucking bitches," "they have nothing better to do," and "Terveens have our backs," or words to that effect.
111. In April 2009, Respondent Anderson again approached Complainant while both were outside at the Subject Property, and he called her a "fucking cunt," or words to that effect.
112. Because of Respondents Anderson and Wagner's ongoing discrimination harassment and intimidation Complainant and her children suffered from elevated stress, anxiety, and fear.
113. As a result of Respondent TK Property's failure to address the discrimination and harassment once it was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.
114. Because of Respondent Scott Terveen's failure to address the discrimination and harassment once he was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.
115. Because of Respondent Michael Terveen's failure to address the discrimination and harassment once it was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.
116. Complainant's dosage of anxiety medication quadrupled as a result of the events outlined in this Charge.
117. In order to alleviate the anxiety, fear and stress caused by Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties, Complainant was forced to move from the Subject Property in May 2009.
118. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 818 of the Act by interfering, intimidating, and threatening Complainant on account of Complainant having exercised her right to live in an environment free from discrimination. 42 U.S.C. § 3617.
119. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 818 of the Act by interfering, intimidating, and threatening Complainant on account of Complainant having aided [REDACTED], and Tenant [REDACTED] in the exercise and enjoyment of their right to an environment free of discrimination. 42 U.S.C. § 3617.

120. Respondents Anderson, Wagner, and TK Properties violated Section 804(c) of the Act by making statements that indicated a “preference, limitation, or discrimination based on race....” 42 U.S.C. § 3604(c).
121. Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties violated Section 804(a) of the Act by making unavailable and denying Complainant her dwelling place at the Subject Property. 42 U.S.C. § 3604(a).
122. As a result of Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties’ discriminatory, intimidating, and threatening conduct, Complainant and her minor children have suffered damages, including economic loss, loss of housing opportunities, inconvenience, and physical and emotional distress.

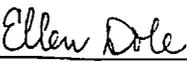
III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) (2004) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Sections 3604(a) and (c), and 3617 of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate the Fair Housing Act, as amended 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of race against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant [REDACTED] for her actual damages, inconvenience, and economic loss caused by Respondents’ discriminatory conduct pursuant to 42 U.S.C. § 3604(a) and (c); and
4. Assesses a civil penalty against Respondents for each violation of the Act that the Respondents have committed pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) (2004).

Respectfully submitted,



Ellen Dole
Regional Counsel, Region VIII



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Attorney Advisor

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Date: August 31, 2009

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1. Pursuant to Section 3617, it shall be 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. § 3617; *see also* 24 C.F.R. §§ 100.400 (b), (c) (1-2).

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2. Pursuant to Section 3604(a), it shall be unlawful for any person to refuse to sell or rent, or otherwise make unavailable or deny, a dwelling to any person because of race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.60 (b).

The Secretary charges Respondents TK Properties and Wagner with violations of the Act as follows:

3. Pursuant to Section 3604(b), it shall be unlawful for any person to discriminate against any other 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 race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.65.

The Secretary charges Respondents TK Properties, Wagner, and Anderson with violations of the Act as follows:

4. Pursuant to Section 3604(c), it shall be unlawful for any person to make, or cause to be made any statement with regard to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604 (c); *see also* 24 C.F.R. § 100.75 (a).
5. Complainant [REDACTED] is a Caucasian female.

6. Since at least December 1, 2008, Respondents Anderson and Wagner have been employed by Respondent TK Properties as on-site management personnel of the property commonly referred to as Lakeport Village Apartments, located at 5801 West Christopher Place, Sioux Falls, South Dakota (hereinafter the "Subject Property").
7. Since at least October 2008, Respondent Anderson has been employed by Respondent TK Properties for the purpose of conducting maintenance work at the Subject Property
8. At all times relevant to this Charge, Respondent Anderson has possessed a key to each residential unit and garage at the Subject Property.
9. At all times relevant to this Charge, Respondents Anderson and Wagner have cohabitated in a unit at the Subject Property.
10. Since at least December 1, 2008, Respondents Anderson and Wagner's residential unit has been provided rent-free as employment compensation by Respondent TK Properties. In addition to a rent free unit, Respondents Anderson and Wagner received a monthly salary.
11. Respondent TK Properties is a limited liability company organized under the laws of the State of South Dakota. Respondent TK Properties was the registered owner of the Subject Property until July 30, 2009.
12. At all times relevant to this Charge, Respondent Scott Terveen, James Terveen and Respondent Michael Terveen were member-managers in Respondent TK Properties.
13. At all times relevant to this Charge, Respondent Scott Terveen assumed the most active role in the business affairs of Respondent TK Properties, including making final business decisions regarding the Subject Property, accepting rent payment, and issuing lease violations.
14. At all times relevant to this Charge, Respondent Michael Terveen has resided at the Subject Property in unit 207 of building 2.
15. At all times relevant to this Charge, Respondent Michael Terveen's active role in the business affairs of Respondent TK Properties was as member-manager contact person for maintenance matters arising at the Subject Property.
16. The Subject Property consists of three (3) separate apartment buildings with a total of 48 residential units. Each apartment building has three (3) stories containing 16 units.
17. Complainant moved to the Subject Property in September 2001. At all times relevant to this Charge, Complainant [REDACTED] was a single mother residing with her two (2) minor children at the Subject Property.

18. On November 1, 2008, at approximately 2:50 PM, the Sioux Falls Police Department, responded to a telephone call from ██████████ regarding an altercation that was taking place in the parking area of the Subject Property. That argument was principally between ██████████'s husband, ██████████, and James Terveen, a member-manager of Respondent TK Properties (herein the November incident).
19. The November incident between ██████████ and James Terveen was heated and stemmed from a dispute between the two (2) men regarding a vehicle belonging to the ██████████. James Terveen wanted the vehicle moved from the parking spot where it was parked.
20. Present during the November incident were Respondent Wagner (not yet employed by Respondent TK Properties), ██████████ ██████████, and James Terveen.
21. At the time of the November incident ██████████ informed the police that he legally possessed a concealed weapon.
22. Upon the police's arrival, ██████████ allowed Officer Carol to remove the gun from his possession. Officer Carol ran a check that showed ██████████ had a permit to carry the weapon, and the weapon was returned to him.
23. One week after the November incident, tenant ██████████ (hereinafter "██████████") overheard Respondents Wagner and Anderson referring to the ██████████ as "niggers" while further stating that the ██████████ possessed a weapon and that other tenants had better "watch your back," or words to that effect.
24. Tenant ██████████ heard both Respondents Anderson and Wagner make the above comment, or a similar one, repeatedly, including after December 1, 2008.
25. Tenant ██████████ (hereinafter "██████████") also heard Respondent Wagner make a comment referring to the ██████████ as "niggers" and that the ██████████ possessed a weapon, and other tenants had better "watch your back," or words to that effect after December 1, 2008.
26. ██████████, one of ██████████'s minor daughters, and Complainant, each heard the above comment or something similar relating to the "niggers" "having guns" from the Respondents Anderson and Wagner, including after December 1, 2008.
27. On December 1, 2008, Respondent TK Properties issued an announcement on company letterhead informing all tenants of the Subject Property that effective December 1, 2008, Respondent Cory Anderson would be the Lakeport Village On-Site Property Manager ("Property manager announcement").

28. Respondent Wagner added her name to the Property manager announcement above Respondent Anderson's name. Respondent Scott Terveen granted Respondent Wagner permission to do so.
29. At the time of the Property manager announcement, Respondents Anderson and Wagner lived in apartment unit 106, tenant [REDACTED] lived in apartment unit 206, Complainant [REDACTED] lived in apartment unit 305 and the [REDACTED] lived in apartment unit 306. Each of the aforementioned units is in building one (1) of the Subject Property.
30. In April 2009, Respondents Anderson and Wagner relocated to a unit in a different building of the Subject Property.
31. After the Property manager announcement was released, Respondents Anderson and Wagner told [REDACTED] that neither Respondent liked the [REDACTED] family, and that her help was needed in "getting rid of the niggers."
32. [REDACTED] perceived Respondent Wagner's degrading comments about the [REDACTED] as behavior intended to make other tenants at the Subject Property fearful of the [REDACTED] family.
33. Respondent Wagner repeatedly made loud and degrading comments about the [REDACTED] within earshot of [REDACTED], including calling them "niggers," "gang bangers," and stating "mother fuckers have a gun," or words to that effect.
34. Between October 2008 and early January 2009, [REDACTED] filed between five (5) and six (6) complaints with management in order to address the elevated noise level she perceived to be coming from the [REDACTED] apartment.
35. On January 5, 2009, [REDACTED] registered a noise complaint against the [REDACTED] with the manager, Respondent Wagner (the "Noise incident").
36. Respondent Wagner came to [REDACTED] unit and escorted [REDACTED] to the [REDACTED] unit to determine the source of the noise.
37. Upon arriving at the [REDACTED]'s unit, [REDACTED] told Respondent Wagner and [REDACTED] that [REDACTED] had just returned from the hospital where he had "almost died."
38. Respondent Wagner proceeded to tell [REDACTED] "That's it," "you're done," "I've had enough," "I don't care if he almost died," and "you're out of here!" or words to that effect.
39. Upon leaving the [REDACTED] doorway, [REDACTED] and Respondent Wagner returned to [REDACTED]'s apartment.

40. Respondent Wagner urged [REDACTED] to make a false police report stating that the [REDACTED] son tried to attack her. Respondent Wagner told [REDACTED], "I need your help getting these fucking niggers out of here," or words to that effect. [REDACTED] refused to file a false report with the police.
41. Nonetheless, the Sioux Falls Police were called to the Subject Property by Respondent Wagner who claimed that the [REDACTED] minor son, [REDACTED] had threatened and attacked [REDACTED].
42. [REDACTED] was asked by police whether she felt threatened by [REDACTED]. She stated that she did not feel threatened. No charges were filed in the Noise incident.
43. That evening, after the Noise incident, [REDACTED] spoke with the [REDACTED] who informed her that [REDACTED] was on dialysis because of organ failure; [REDACTED] came to the realization that the [REDACTED] did not hate her or her children, as Respondent Wagner had led her to believe.
44. [REDACTED] related the circumstances of the Noise incident to Complainant.
45. On or about February 19, 2009, Complainant [REDACTED] and Respondent Wagner were arguing in public while on the Subject Property when Respondent Wagner stated, "Do you know the difference between a black person and a nigger? The difference is the niggers living upstairs in 306," or words to that effect.
46. [REDACTED] and another tenant, [REDACTED] (hereinafter "[REDACTED]"), both heard the above comment, made by Respondent Wagner and Respondent Wagner's use of racially derogatory terms during the argument.
47. On or about February 20, 2009, [REDACTED], [REDACTED] and [REDACTED], and Complainant [REDACTED] left the Subject Property and drove to the Sioux Falls Housing and Redevelopment Commission (hereinafter "Housing Authority").
48. While leaving the Subject Property [REDACTED] and Complainant [REDACTED], who were driving together, witnessed Respondents Anderson and Wagner intently staring at them as they drove away.
49. At the Housing Authority, [REDACTED], the [REDACTED] and Complainant [REDACTED] spent several hours relaying the discriminatory, intimidating and harassing behavior of Respondents Anderson and Wagner since the Respondents began their employment with Respondent TK Properties.
50. Before leaving the Housing authority [REDACTED] and Complainant [REDACTED] were informed that the Denver HUD office was contacted to initiate the fair housing inquiries that led to the issuance of this Charge.

51. Upon returning to her apartment at the Subject Property from the Housing Authority later that day, ██████ noticed that multiple belongings had been moved since she had left.
52. The moved belongings included ██████'s kitchen cupboard doors having been left open, her laptop screen having been opened, and drawers of cabinets and chests having been opened and rifled through.
53. ██████ believes that Respondent Anderson, having keys to her apartment as the maintenance person and having seen her leaving with Complainant ██████ and the ██████, had been in her apartment and gone through her belongings.
54. One day later, February 21, 2009, the ██████s and Complainant ██████ reported to the police that neither of their units had any heat (the "Heat incident").
55. Because everyone else residing at the Subject Property appeared to have heat in their units, the ██████ and Complainant ██████ believe the lack of heat was intentional.
56. The responding officer, Bridget O'Toole was told by ██████ that the managers were discriminating against the ██████ on the basis of their race, Black.
57. The ██████ minor son, ██████ informed Officer O'Toole that Respondents Anderson and Wagner had made the comment "niggers upstairs" in reference to the ██████, who, at the time, lived above the Respondents Anderson and Wagner.
58. ██████ also relayed to Officer O'Toole that the managers were calling the ██████ thieves and were threatening people at the Subject Property.
59. Respondents Anderson and Wagner were not present at the Subject Property at the time of the Heat incident. Both Respondents Anderson and Wagner assert that they were in Fargo, North Dakota.
60. Unable to contact Respondent Anderson regarding the Heat incident, the Sioux Falls Police located Respondent Michael Terveen of Respondent TK Properties to take care of the situation.
61. Respondent Michael Terveen was able to get Complainant ██████ and the ██████ heat turned back on in their respective units.
62. The same day of the Heat incident, February 21, 2009, ██████ received a telephone text message from Respondent Wagner, "is it true you were with ██████ yesterday at housing, we have never done anything 2 u or your family-y r u against us?" (the "Text message").

63. [REDACTED] was fearful of Respondents Anderson and Wagner upon receipt of the Text message.
64. [REDACTED] fear of the Respondents Anderson and Wagner was exacerbated by [REDACTED] having previously received multiple verbal warnings from Respondent Wagner regarding the growing feud between the Respondents, Complainant [REDACTED] and the [REDACTED].
65. These previous verbal warnings included, "if you've got our back, we've got your back," and "as long as you don't go against us, you don't have anything to worry about," or words to that effect.
66. Respondent Anderson also told [REDACTED], "you'd better watch your back [REDACTED] [Complainant [REDACTED]] is a liar, causing trouble, she will take that knife and stick it in your back, too," or words to that effect.
67. [REDACTED] had previously been informed that Respondent Anderson had an extensive criminal record, including past violent crimes.
68. [REDACTED] perceived Respondents Anderson and Wagner's communication as a threat of eviction if she did not side with them in the escalating conflict because Respondents Anderson and Wagner were the Subject Property's management.
69. [REDACTED] also perceived Respondents Anderson and Wagner's communication with her as a threat against her or her children.
70. On or about, February 22, 2009, the day following both the Heat incident and the Text message, Respondent Wagner threatened Complainant in a vulgarity-laced voicemail message stating that it would take "every ounce in my body" to "take you [REDACTED] out of here," (the "Voicemail").
71. On the following day, Monday, February 23, 2009, Complainant reported the Voicemail to the Sioux Falls Police Department. The police department listened to the Voicemail and recommended that Complainant file for a protective order against Respondent Wagner.
72. Soon after receiving the Voicemail, Complainant, along with her friend [REDACTED] (hereinafter [REDACTED]) met with Respondent Michael Terveen in his unit at the Subject Property for approximately 30 minutes.
73. During the meeting with Respondent Michael Terveen, Complainant informed Respondent Michael Terveen that the management, Respondents Anderson and Wagner, were engaging in racism, discrimination, harassment and intimidation directed at tenants of the Subject Property.

74. Respondent Michael Terveen informed [REDACTED] and [REDACTED] that Respondents Anderson and Wagner were accusing [REDACTED] of stalking them.
75. Complainant told Respondent Michael Terveen that her problems with Respondents Anderson and Wagner were derived from her defending the [REDACTED] and from not accepting their frequent derogatory use of the word "nigger" when referring to the [REDACTED].
76. Complainant also played the Voicemail for Respondent Michael Terveen during the meeting.
77. Soon after, Complainant informed [REDACTED] of the meeting with Respondent Michael Terveen; specifically, that she had relayed the problems that [REDACTED], the [REDACTED], and Complainant were having with Respondents Anderson and Wagner.
78. Sometime that day, after [REDACTED] and Complainant left Respondent Michael Terveen's apartment, Respondent Michael Terveen telephoned fellow TK Properties member-manager, Respondent Scott Terveen to inform Respondent Scott Terveen about the Voicemail.
79. Thereafter, Respondent Scott Terveen telephoned Respondent Wagner and informed her that she was being fired from her position as manager of the Subject Property because she was "too much of a liability."
80. Respondent Wagner generated a written petition for her reinstatement and asked tenants of the Subject Property to sign it; about half of the tenants did so.
81. Respondent Scott Terveen explained to Respondent Wagner that if she wanted to continue living rent-free in her shared apartment with Anderson, she would need to continue doing the management work at the Subject Property.
82. No new management has been hired since Respondent Wagner's "firing."
83. Respondent Wagner performed managerial duties after she was "fired." These duties included assisting prospective tenants in the application process, assisting new tenants during the move in process, and continuing her possession of tenant files stored in the apartment she shares with Respondent Anderson.
84. On the day of Respondent Wagner's alleged firing, Respondent Michael Terveen text messaged Complainant stating, "Ann [Respondent Wagner] is fired, watch your tires."
85. Complainant replied, asking whether the Respondents Anderson and Wagner had also been evicted, to which Respondent Michael Terveen replied, "No." Complainant told Respondent Michael Terveen that people were "scared" of the Respondents Anderson and Wagner, and Respondent Michael Terveen replied, "I'm scared too."

86. Around the same time, Respondent Anderson told another tenant, [REDACTED] (hereinafter [REDACTED]), "I'm sick of her [Complainant] talking shit about my being racist, and if she doesn't stop, I'll punch her in the mouth to shut her up. I'm not afraid to go back to jail. I've been there before and they know me. If I go, I would only do a weekend," or words to that effect.
87. Complainant then filed for a temporary protective order with the county court against Respondent Anderson; a hearing was scheduled for March 20, 2009 (the "Protection hearing").
88. On four (4) occasions prior to the Protection hearing, [REDACTED] witnessed Respondent Anderson punching his fist while Complainant walked by Respondent Anderson's unit on the way to her vehicle.
89. Also in mid-March 2009, [REDACTED] overheard Respondent Wagner make deliberate and caustic remarks toward Complainant while Complainant and Respondent Wagner were both in the parking lot of the Subject Property.
90. These remarks included, "dick, you fucking bitch, slut, whore," and "keep your fucking mouth shut," or words to that effect, all while Respondent Wagner shook her fist and extended her middle finger toward Complainant.
91. Thereafter Complainant and [REDACTED] called the police from Complainant's apartment. The police came to the Subject Property in response to the call and informed Complainant that until a temporary protection order was in place, Respondent Wagner was free to interact with Complainant.
92. In mid-March 2009, Respondent Anderson walked up behind [REDACTED] and said, "You better watch out or I'll beat the shit out of you too, you better watch out," or words to that effect.
93. On or about March 13, 2009, [REDACTED] called Respondent Scott Terveen three (3) times, attempting to detail the ongoing race discrimination, harassment and intimidation by Respondents Anderson and Wagner.
94. Unable to speak to Respondent Scott Terveen directly, [REDACTED] left voice messages detailing the ongoing problems with discrimination and intimidation that she was having with Respondents Anderson and Wagner.
95. [REDACTED] called Respondent Scott Terveen again, on March 16 and 24, 2009, and on April 6, 2009, again leaving voice messages. Respondent Scott Terveen did not return any of [REDACTED] phone calls.

96. [REDACTED] also specified in at least one of these voicemail messages that she needed a management signature on her Housing Authority paperwork in preparation for her leaving the Subject Property due to the ongoing harassment.
97. The judge presiding over the Protection hearing elected not to grant the order. However, she stated that if any threat by Respondent Anderson against Complainant occurred after the hearing then the order would be granted.
98. On March 20, 2009, the same day as the Protection hearing, Respondent Wagner approached the wife of [REDACTED] (hereinafter "[REDACTED]") at his residence.
99. While there, Respondent Wagner informed [REDACTED] wife that [REDACTED] was having an affair with Tenant [REDACTED]. Consequently, [REDACTED] wife went into a state of hysteria. [REDACTED] denies having an affair with [REDACTED].
100. At the time of this incident, [REDACTED] was aware of the ongoing discrimination, harassment and intimidation because Complainant had told him about it.
101. The following Monday, March 23, 2009, [REDACTED] telephoned owner Respondent Scott Terveen in order to complain about Respondent TK Properties employee, Respondent Wagner.
102. [REDACTED] was able to reach Respondent Scott Terveen directly. [REDACTED] relayed Respondent Wagner's conversation with [REDACTED] wife to Respondent Scott Terveen.
103. [REDACTED] specifically attributed Respondent Wagner's probable motivation as being retaliatory, particularly against Complainant.
104. [REDACTED] also relayed to Respondent Scott Terveen that Respondents Anderson and Wagner were participating in ongoing racial discrimination toward a Black family living at the Subject Property and consequential harassment and intimidation directed toward white tenants who defended that Black family.
105. [REDACTED] further explained to Respondent Scott Terveen that Respondent TK Properties, as the owner of the Subject Property and as the employer of the Respondents Anderson and Wagner, would be responsible for Respondents Anderson and Wagner's conduct.
106. Respondent Scott Terveen told [REDACTED] that he knew there were problems with the management at the Subject Property. Respondent Scott Terveen apologized for Respondent Wagner's behavior toward [REDACTED] wife and told [REDACTED] that he would, "Take care of it," or words to that effect.
107. Respondent S. Terveen did not state that Respondent Wagner was not employed by Respondent TK Properties during his conversation with [REDACTED].

108. Meanwhile, Respondents Anderson and Wagner continued to intimidate [REDACTED] and [REDACTED]'s children by routinely staring them down when they were in the common areas of the Subject Property.
109. Also, over the course of several weeks after the March 20th Protection hearing [REDACTED] overheard repeated comments from Anderson made while on the deck of his unit. These comments included: "fucking cunts," "fucking bitches," "they have nothing better to do," and "Terveens have our backs," or words to that effect.
110. On or about June 1, 2009, Complainant's unit was inspected by or for the housing authority in accordance with the regulations and rules governing the Section 8 Housing Assistance Program.
111. Complainant's unit was found not to be in compliance with HUD's Housing Quality Standards ("HQS").
112. On June 2, 2009, the HQS inspector sent a letter to Respondent TK Properties notifying it of the failed inspection and the specific deficiencies revealed during the inspection.
113. Respondent TK Properties was given thirty (30) days to correct the deficiencies in order for the rental assistance to continue.
114. Respondent TK Properties failed to address any of the deficiencies in the Complainant's unit and failed to make any of the required repairs.
115. Neither Respondent TK Properties nor any of its representatives ever responded in any way to the inspection.
116. Based upon the Respondent TK Properties failure to address the deficiencies and failed HQS inspection, Complainant was forced to vacate her unit due to the loss of housing assistance subsidy for her unit at the Subject Property.
117. Respondent TK Properties and its representatives cured the defects identified in HQS inspections for other residents not involved in protected fair housing activities.
118. Because of Respondents Anderson and Wagner's ongoing discrimination harassment and intimidation Complainant suffered from elevated stress, anxiety, and fear.
119. As a result of Respondent TK Property's failure to address the discrimination and harassment, Complainant suffered from further elevated stress, anxiety and fear.
120. Because of Respondent Scott Terveen's failure to address the discrimination and harassment once he was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.

121. Because of Respondent Michael Terveen's failure to address the discrimination and harassment once it was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.
122. Based upon retaliation for engaging in fair housing activities by Respondent TK Properties, Complainant and her minor children were forced to vacate the Subject Property on July 31, 2009.
123. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 3617 of the Act by interfering, intimidating and threatening Complainant on account of Complainant having exercised her right to live in an environment free from discrimination.
124. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 3617 of the Act by interfering, intimidating, and threatening Complainant on account of Complainant having aided [REDACTED], [REDACTED], and [REDACTED] in the exercise and enjoyment of their right to an environment free of discrimination. 42 U.S.C. § 3617.
125. Respondent TK Properties violated Section 3617 of the Act by retaliating against Complainant by not addressing the deficiencies identified in the June 1, 2009 HQS inspection. 42 U.S.C. § 3617.
126. Respondent TK Properties violated Section 3604(a) by making Complainant's unit at the Subject Property unavailable to her based upon race based motivations. 42 U.S.C. § 3604(a).
127. Respondents Wagner and TK Properties violated Section 3604(b) of the Act by subjecting the Complainant to threats of eviction based upon race. 42 U.S.C. § 3604(b).
128. Respondents Wagner and TK Properties violated Section 3604(b) of the Act by subjecting the Complainant to different terms and conditions of rental. 42 U.S.C. § 3604(b).
129. Respondents Anderson, Wagner, and TK Properties violated Section 3604(c) of the Act by indicating a "preference, limitation, or discrimination based on race...." 42 U.S.C. § 3604(c).
130. As a result of Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties' discriminatory, intimidating, and threatening conduct, Complainant and her minor children have suffered damages, including economic loss, loss of housing opportunities, inconvenience, and physical and emotional distress.
131. As a result of Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties' discriminatory conduct, Complainant and her minor children were

forced move from their unit and became homeless, forcing them to live in a temporary shelter.

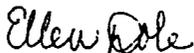
III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) (2004) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Sections 3604(a), 3604(b) and 3604(c), and 3617 of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate the Fair Housing Act, as amended 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of race against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant for her actual damages, inconvenience, and economic loss caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. §§ 3604(a), (b) and (c) and 3617; and
4. Assesses a civil penalty against Respondents for each violation of the Act that the Respondents have committed pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) (2004).

Respectfully submitted,



Ellen Dole
Regional Counsel, Region VIII



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Date: August 31, 2009

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)
██████████ and her minor children)
)
Charging Party,)
)
v.)
)
Ann A. Wagner, Corey J. Anderson, Scott)
Terveen, Michael J. Terveen and TK)
Properties, LLC,)
)
Respondents.)

HUD ALJ No.

FHEO No. 08-09-0093-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On February 26, 2009, the complainant, ██████████ (hereinafter "Complainant") filed a verified complaint, as amended on May 25, 2009, (hereinafter the "HUD Complaint") with the United States Department of Housing and Urban Development (hereinafter the "Department"), alleging that Respondents Corey J. Anderson, Ann A. Wagner, Scott Terveen, Michael J. Terveen, and TK Properties, LLC (hereinafter "Respondents") violated the Fair Housing Act, as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (hereinafter the "Act"), by discriminating on the basis of race in violation of Sections 804(a), 804(c) and 818 of the Act. 42 U.S.C. §§ 3604(a), (c), 3617.

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 has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegateed to the Regional Counsel (73 Fed.Reg. 68442), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region VIII Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices based on race have occurred in this case, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned HUD Complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents Anderson, Wagner, Scott Terveen, Michael Terveen and TK Properties with discriminating against Complainant [REDACTED] an aggrieved person as defined by 42 U.S.C. § 3602 (i), based on race in violation of the Act as follows:

1. Pursuant to Section 3617, it shall be 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. § 3617; *see also* 24 C.F.R. §§ 100.400 (b), (c) (1-2).
2. Pursuant to Section 3604(a), it shall be unlawful for any person to refuse to sell or rent, or otherwise make unavailable or deny, a dwelling to any person because of race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.60 (b).

The Secretary charges Respondents TK Properties, Anderson, and Wagner with violations of the Act as follows:

3. Pursuant to Section 3604(c), it shall be unlawful for any person to make, or cause to be made any statement with regard to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604 (c); *see also* 24 C.F.R. § 100.75 (a).
4. Complainant [REDACTED] is a Caucasian female.
5. Since at least December 1, 2008, Respondents Anderson and Wagner have been employed by Respondent TK Properties as on-site management personnel of the property commonly referred to as Lakeport Village Apartments, located at 5801 West Christopher Place, Sioux Falls, South Dakota (hereinafter the "Subject Property").
6. Since at least October 2008, Respondent Anderson has been employed by Respondent TK Properties for the purpose of conducting maintenance work at the Subject Property.
7. At all times relevant to this Charge, Respondent Anderson has possessed a key to each residential unit and garage at the Subject Property.

8. At all times relevant to this Charge, Respondents Anderson and Wagner have cohabitated in a unit at the Subject Property.
9. Since at least December 1, 2008, Respondents Anderson and Wagner's residential unit has been provided rent-free as employment compensation by Respondent TK Properties. In addition to a rent free unit, Respondents Anderson and Wagner received a monthly salary.
10. Respondent TK Properties is a limited liability company organized under the laws of the State of South Dakota. Respondent TK Properties was the registered owner of the Subject Property until July 30, 2009.
11. At all times relevant to this Charge, Respondent Scott Terveen, James Terveen and Respondent Michael Terveen were member-managers in Respondent TK Properties.
12. At all times relevant to this Charge, Respondent Scott Terveen assumed the most active role in the business affairs of Respondent TK Properties, including making final business decisions regarding the Subject Property, accepting rent, and issuing lease violations.
13. At all times relevant to this Charge, Respondent Michael Terveen has resided at the Subject Property in unit 207 of building 2.
14. At all times relevant to this Charge, Respondent Michael Terveen's active role in the business affairs of Respondent TK Properties was as member-manager contact person for maintenance matters arising at the Subject Property.
15. The Subject Property consists of three (3) separate apartment buildings with a total of 48 residential units. Each apartment building has three (3) stories containing 16 units.
16. Complainant moved to the Subject Property on June 13, 2003. At all times relevant to this Charge, Complainant [REDACTED] was a single mother residing with her three (3) minor children at the Subject Property.
17. On November 1, 2008, at approximately 2:50 PM, the Sioux Falls Police Department, responded to a telephone call from [REDACTED] regarding an altercation that was taking place in the parking area of the Subject Property. That argument was principally between [REDACTED] husband, [REDACTED], and James Terveen, a member-manager of Respondent TK Properties (herein the November incident).
18. The November incident between [REDACTED] and James Terveen was heated and stemmed from a dispute between the two (2) men regarding a vehicle belonging to the [REDACTED]

19. James Terveen wanted the van moved from the parking spot where it was parked. Present during the November incident were Respondent Wagner (not yet employed by Respondent TK Properties), [REDACTED], [REDACTED], and James Terveen.
20. At the time of the November incident [REDACTED] informed the police that he legally possessed a concealed weapon.
21. Upon the police's arrival, [REDACTED] allowed Officer Carol to remove the gun from his possession. Officer Carol ran a check that showed [REDACTED] had a permit to carry the weapon, and the weapon was returned to him.
22. One week after the November incident, tenant [REDACTED] (hereinafter "[REDACTED]") overheard Respondents Wagner and Anderson referring to the [REDACTED] as "niggers" while further stating that the [REDACTED] possessed a weapon and that other tenants had better "watch your back," or words to that effect.
23. Tenant [REDACTED] heard both Respondents Anderson and Wagner make the above comment, or a similar one, repeatedly, including after December 1, 2008.
24. Tenant [REDACTED] (hereinafter "[REDACTED]") also heard Respondent Wagner make a comment referring to the [REDACTED]'s as "niggers" and that the [REDACTED] possessed a weapon, and other tenants had better "watch your back," or words to that effect after December 1, 2008.
25. Complainant, one of Complainant's minor daughters, and another tenant, [REDACTED] (hereinafter "[REDACTED]"), each heard the above comment or something similar relating to the "niggers" "having guns" from the Respondents Anderson and Wagner, including after December 1, 2008.
26. On December 1, 2008, Respondent TK Properties issued an announcement on company letterhead informing all tenants of the Subject Property that effective December 1, 2008, Respondent Cory Anderson would be the Lakeport Village On-Site Property Manager ("Property manager announcement").
27. Respondent Wagner added her name to the Property manager announcement above Respondent Anderson's name. Respondent Scott Terveen granted Respondent Wagner permission to do so.
28. At the time of the Property manager announcement, Respondents Anderson and Wagner lived in apartment unit 106, Complainant [REDACTED] lived in apartment unit 206, tenant [REDACTED] lived in apartment unit 305 and the [REDACTED] lived in apartment unit 306. Each of the aforementioned units is in building one (1) of the Subject Property.

29. Complainant [REDACTED] therefore lived directly below the [REDACTED] family and one (1) floor above the Respondents Anderson and Wagner.
30. In April 2009, Respondents Anderson and Wagner relocated to a unit in a different building of the Subject Property.
31. In May 2009, Complainant moved from the Subject Property due to the severity of Respondents Anderson and Wagner's conduct, as outlined in this Charge.
32. After the Property manager announcement was released, Respondents Anderson and Wagner told Complainant that neither Respondent liked the [REDACTED] family and that they needed help "getting rid of the niggers."
33. [REDACTED] perceived Respondent Wagner's degrading comments about the [REDACTED] as behavior intended to make other tenants at the Subject Property fearful of the [REDACTED] family.
34. Respondent Wagner also fostered ill will between Complainant and the [REDACTED] by, among other things, telling Complainant that the [REDACTED] hated Complainant [REDACTED] and her children.
35. Respondent Wagner repeatedly made loud and degrading comments about the [REDACTED] within earshot of Complainant [REDACTED], including calling them "niggers," "gang bangers," and stating "mother fuckers have a gun," or words to that effect.
36. Between October 2008 and early January 2009, Complainant filed between five (5) and six (6) complaints with management in order to address the elevated noise level she perceived to be coming from the [REDACTED] apartment.
37. On January 5, 2009, Complainant registered a noise complaint against the [REDACTED] with the manager, Respondent Wagner (the "Noise incident").
38. Respondent Wagner came to Complainant's unit and escorted Complainant to the [REDACTED]'s unit to determine the source of the noise.
39. Upon arriving at the [REDACTED] unit, [REDACTED] told Respondent Wagner and Complainant that [REDACTED] had just returned from the hospital where he had "almost died."
40. Respondent Wagner proceeded to tell [REDACTED], "That's it," "you're done," "I've had enough," "I don't care if he almost died," and "you're out of here!" or words to that effect.
41. Upon leaving the [REDACTED] doorway, Complainant and Respondent Wagner returned to Complainant's apartment.

42. Respondent Wagner urged Complainant to make a false police report stating that the [REDACTED] son tried to attack Complainant. Respondent Wagner told Complainant, "I need your help getting these fucking niggers out of here," or words to that effect. Complainant refused to file a false report with the police.
43. Nonetheless, the Sioux Falls Police were called to the Subject Property by Respondent Wagner who claimed that the [REDACTED] minor son, [REDACTED], had threatened and attacked Complainant [REDACTED].
44. Complainant [REDACTED] was asked by police whether she felt threatened by [REDACTED]. She stated that she did not feel threatened. No charges were filed in the Noise incident.
45. That evening, after the Noise incident, Complainant spoke with the [REDACTED] who informed her that [REDACTED] was on dialysis because of organ failure. Complainant also learned that the earlier noise was caused by [REDACTED] dialysis machine having fallen on the floor. Complainant came to the realization that the [REDACTED] did not hate her or her children, as Respondent Wagner had led her to believe.
46. On or about February 20, 2009, Complainant [REDACTED], [REDACTED], and [REDACTED] and [REDACTED] left the Subject Property and drove to the Sioux Falls Housing and Redevelopment Commission (hereinafter "Housing Authority").
47. While leaving the Subject Property Complainant and [REDACTED], who were driving together, witnessed Respondents Anderson and Wagner intently staring at them as they drove away.
48. At the Housing Authority, Complainant [REDACTED], the [REDACTED] and [REDACTED] spent several hours relaying the discriminatory, intimidating and harassing behavior of Respondents Anderson and Wagner since the Respondents began their employment with Respondent TK Properties.
49. Before leaving the Housing authority Complainant and [REDACTED] were informed that the Denver HUD office was contacted to initiate the fair housing inquiries that led to the issuance of this Charge.
50. Upon returning to her apartment at the Subject Property from the Housing Authority later that day, Complainant [REDACTED] noticed that multiple belongings had been moved since she had left.
51. The moved belongings included Complainant's kitchen cupboard doors having been left open, her laptop screen having been opened, and drawers of cabinets and chests having been opened and rifled through.

52. Complainant believes that Respondent Anderson, having keys to her apartment as the maintenance person and having seen her leaving with [REDACTED] and the [REDACTED], had been in her apartment and gone through her belongings.
53. One day later, February 21, 2009, the [REDACTED] and [REDACTED] reported to the police that neither of their units had any heat (the "Heat incident").
54. Because everyone else residing at the Subject Property appeared to have heat in their units, the [REDACTED] and [REDACTED] believe the lack of heat was intentional.
55. The responding officer, Bridget O'Toole was told by [REDACTED] that the managers were discriminating against the [REDACTED] on the basis of their race, Black.
56. The [REDACTED]'s minor son, [REDACTED], informed Officer O'Toole that Respondents Anderson and Wagner had made the comment "niggers upstairs" in reference to the [REDACTED], who, at the time, lived above the Respondents Anderson and Wagner.
57. [REDACTED] also relayed to Officer O'Toole that the managers were calling the [REDACTED] thieves and were threatening people at the Subject Property.
58. Respondents Anderson and Wagner were not present at the Subject Property at the time of the Heat incident. Both Respondents Anderson and Wagner assert that they were in Fargo, North Dakota.
59. Unable to contact Respondent Anderson regarding the Heat incident, the Sioux Falls Police located Respondent Michael Terveen of Respondent TK Properties to take care of the situation.
60. Respondent Michael Terveen was able to get Johnson and the [REDACTED] heat turned back on in their respective units.
61. The same day of the Heat incident, February 21, 2009, Complainant received a telephone text message from Respondent Wagner, "is it true you were with [REDACTED] [REDACTED] yesterday at housing, we have never done anything 2 u or your family-y r u against us?" (the "Text message").
62. Complainant was fearful of Respondents Anderson and Wagner upon receipt of the Text message.
63. Complainant's fear of the Respondents Anderson and Wagner was exacerbated by Complainant having previously received multiple verbal warnings from Respondent Wagner regarding the growing feud between the Respondents Anderson and Wagner, [REDACTED] and the [REDACTED].

64. These previous verbal warnings included, "if you've got our back, we've got your back," and "as long as you don't go against us, you don't have anything to worry about," or words to that effect.
65. Respondent Anderson also told Complainant [REDACTED], "you'd better watch your back [REDACTED] is a liar, causing trouble, she will take that knife and stick it in your back, too," or words to that effect.
66. Complainant had previously been informed that Respondent Anderson had an extensive criminal record, including past violent crimes.
67. Complainant perceived Respondents Anderson and Wagner's communications as a threat of eviction if she did not side with them in the escalating conflict because Respondents Anderson and Wagner were the Subject Property's management.
68. Complainant also perceived Respondents Anderson and Wagner's communication with her as a threat against her or her children.
69. On or about, February 22, 2009, the day following both the Heat incident and the Text message, Complainant [REDACTED] learned that Respondent Wagner had threatened [REDACTED]. Respondent Wagner had left [REDACTED] a vulgarity-laced voicemail message stating that it would take "every ounce in my body" to "take you [REDACTED] out of here," (the "Voicemail").
70. On the following day, Monday, February 23, 2009 [REDACTED] reported the Voicemail to the Sioux Falls Police Department. The police department listened to the Voicemail and recommended that [REDACTED] file for a protective order against Respondent Wagner.
71. Soon after receiving the Voicemail, [REDACTED], along with her friend [REDACTED] (hereinafter "[REDACTED]") met with Respondent Michael Terveen in his unit at the Subject Property for approximately 30 minutes (the "Meeting").
72. During the Meeting, [REDACTED] informed Respondent Michael Terveen that the management, Respondents Anderson and Wagner, were engaging in racism, discrimination, harassment and intimidation directed at tenants of the Subject Property.
73. Respondent Michael Terveen informed [REDACTED] and [REDACTED] that Respondents Anderson and Wagner were accusing [REDACTED] of stalking them.
74. [REDACTED] told Respondent Michael Terveen that her problems with Respondents Anderson and Wagner were derived from her defending the [REDACTED] and from not accepting their frequent derogatory use of the word "nigger" when referring to the [REDACTED]

75. [REDACTED] also played the Voicemail for Respondent Michael Terveen during the meeting.
76. Soon after, [REDACTED] informed the Complainant of the meeting with Respondent Michael Terveen; specifically, that she had relayed the problems that Complainant [REDACTED], the [REDACTED], and [REDACTED] were having with Respondents Anderson and Wagner.
77. Sometime that day, after [REDACTED] and [REDACTED] left Respondent Michael Terveen's apartment, Respondent Michael Terveen telephoned fellow TK Properties member-manager, Respondent Scott Terveen, to inform Respondent Scott Terveen about the Voicemail.
78. Thereafter, Respondent Scott Terveen telephoned Respondent Wagner and informed her that she was being fired from her position as manager of the Subject Property because she was "too much of a liability."
79. Respondent Wagner generated a written petition for her reinstatement and asked tenants of the Subject Property to sign it; about half of the tenants did so.
80. Respondent Scott Terveen explained to Respondent Wagner that if she wanted to continue living rent-free in her shared apartment with Anderson, she would need to continue doing the management work at the Subject Property.
81. No new management has been hired since Respondent Wagner's "firing."
82. Respondent Wagner performed managerial duties after she was "fired." These duties included assisting prospective tenants in the application process, assisting new tenants during the move in process, and continuing her possession of tenant files stored in the apartment she shares with Respondent Anderson.
83. On the day of Respondent Wagner's alleged firing, Respondent Michael Terveen text messaged [REDACTED] stating, "Ann [Respondent Wagner] is fired, watch your tires."
84. [REDACTED] replied, asking whether the Respondents Anderson and Wagner had also been evicted, to which Respondent Michael Terveen replied, "No." [REDACTED] told Respondent Michael Terveen that people were "scared" of the Respondents Anderson and Wagner, and Respondent Michael Terveen replied, "I'm scared too."
85. Around the same time, Respondent Anderson told another tenant, [REDACTED] (hereinafter [REDACTED]), "I'm sick of her [REDACTED] talking shit about my being racist, and if she doesn't stop, I'll punch her in the mouth to shut her up. I'm not afraid to go back to jail. I've been there before and they know me. If I go, I would only do a weekend," or words to that effect. [REDACTED] informed [REDACTED] of what Respondent Anderson had said.

86. Soon after hearing what Respondent Anderson told [REDACTED] Tenant [REDACTED] went to Complainant [REDACTED]'s apartment to tell her about the threats of violence.
87. [REDACTED] then filed for a temporary protective order with the county court against Respondent Anderson; a hearing was scheduled for March 20, 2009 (the "Protection hearing").
88. On four (4) occasions prior to the Protection hearing, Complainant witnessed Respondent Anderson punching his fist while [REDACTED] walked by Respondent Anderson's unit on the way to her vehicle.
89. Also in mid-March 2009, Complainant [REDACTED] overheard Respondent Wagner make deliberate and caustic remarks toward [REDACTED] while [REDACTED] and Respondent Wagner were both in the parking lot of the Subject Property.
90. These remarks included, "dick, you fucking bitch, slut, whore," and "keep your fucking mouth shut," or words to that effect, all while Respondent Wagner shook her fist and extended her middle finger toward [REDACTED].
91. Thereafter Complainant [REDACTED] and [REDACTED] called the police from [REDACTED] apartment. The police came to the Subject Property in response to the call and informed [REDACTED] that until a temporary protection order was in place, Respondent Wagner was free to interact with [REDACTED].
92. In mid-March 2009, Respondent Anderson walked up behind Complainant [REDACTED] and said, "You better watch out or I'll beat the shit out of you too, you better watch out," or words to that effect.
93. On or about March 13, 2009, Complainant [REDACTED] called Respondent Scott Terveen three (3) times, attempting to detail the ongoing race discrimination, harassment and intimidation by Respondents Anderson and Wagner.
94. Unable to speak to Respondent Scott Terveen directly, Complainant left voice messages detailing the ongoing problems with discrimination and intimidation that she was having with Respondents Anderson and Wagner.
95. Complainant called Respondent Scott Terveen again, on March 16 and 24, 2009, and on April 6, 2009, again leaving voice messages. Respondent Scott Terveen did not return any of Complainant [REDACTED]'s phone calls.
96. Complainant also specified in at least one of these voicemail messages that she needed a management signature on her Housing Authority paperwork in preparation for her leaving the Subject Property due to the ongoing harassment.

97. The judge presiding over the Protection hearing elected not to grant the order. However, she stated that if any threat by Respondent Anderson against ██████ occurred after the hearing then the order would be granted.
98. Complainant and ██████ both testified in the Protection hearing.
99. On March 20, 2009, the same day as the Protection hearing, Respondent Wagner approached the wife of ██████ (hereinafter "██████") at his residence.
100. While there, Respondent Wagner informed ██████ wife that ██████ was having an affair with Tenant ██████. Consequently, ██████ wife went into a state of hysteria. ██████ denies having an affair with ██████.
101. At the time of this incident, ██████ was aware of the ongoing discrimination, harassment and intimidation because ██████ had told him about it.
102. The following Monday, March 23, 2009, ██████ telephoned Respondent Scott Terveen in order to complain about Respondent TK Properties employee, Respondent Wagner.
103. ██████ was able to reach Respondent Scott Terveen directly. ██████ relayed Respondent Wagner's conversation with ██████ wife to Respondent Scott Terveen.
104. ██████ specifically attributed Respondent Wagner's probable motivation as being retaliatory, particularly against ██████.
105. ██████ also relayed to Respondent Scott Terveen that Respondents Anderson and Wagner were participating in ongoing racial discrimination toward a Black family living at the Subject Property and consequential harassment and intimidation directed toward white tenants who defended that Black family.
106. ██████ further explained to Respondent Scott Terveen that Respondent TK Properties, as the owner of the Subject Property and as the employer of the Respondents Anderson and Wagner, would be responsible for Respondents Anderson and Wagner's conduct.
107. Respondent Scott Terveen told ██████ that he knew there were problems with the management at the Subject Property. Respondent Scott Terveen apologized for Respondent Wagner's behavior toward ██████ wife and told ██████ that he would, "Take care of it," or words to that effect.
108. Respondent S. Terveen did not state that Respondent Wagner was not employed by Respondent TK Properties during his conversation with ██████

109. Meanwhile, Respondents Anderson and Wagner continued to intimidate Complainant and Complainant's children by routinely staring them down when they were in the common areas of the Subject Property.
110. Also, over the course of several weeks after the March 20th Protection hearing Complainant overheard repeated comments from Anderson made while on the deck of his unit. These comments included: "fucking cunts," "fucking bitches," "they have nothing better to do," and "Terveens have our backs," or words to that effect.
111. In April 2009, Respondent Anderson again approached Complainant while both were outside at the Subject Property, and he called her a "fucking cunt," or words to that effect.
112. Because of Respondents Anderson and Wagner's ongoing discrimination harassment and intimidation Complainant and her children suffered from elevated stress, anxiety, and fear.
113. As a result of Respondent TK Property's failure to address the discrimination and harassment once it was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.
114. Because of Respondent Scott Terveen's failure to address the discrimination and harassment once he was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.
115. Because of Respondent Michael Terveen's failure to address the discrimination and harassment once it was provided with notice of the aforementioned events, Complainant and her children suffered from further elevated stress, anxiety and fear.
116. Complainant's dosage of anxiety medication quadrupled as a result of the events outlined in this Charge.
117. In order to alleviate the anxiety, fear and stress caused by Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties, Complainant was forced to move from the Subject Property in May 2009.
118. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 818 of the Act by interfering, intimidating, and threatening Complainant on account of Complainant having exercised her right to live in an environment free from discrimination. 42 U.S.C. § 3617.
119. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 818 of the Act by interfering, intimidating, and threatening Complainant on account of Complainant having aided [REDACTED], and Tenant [REDACTED] in the exercise and enjoyment of their right to an environment free of discrimination. 42 U.S.C. § 3617.

120. Respondents Anderson, Wagner, and TK Properties violated Section 804(c) of the Act by making statements that indicated a “preference, limitation, or discrimination based on race....” 42 U.S.C. § 3604(c).
121. Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties violated Section 804(a) of the Act by making unavailable and denying Complainant her dwelling place at the Subject Property. 42 U.S.C. § 3604(a).
122. As a result of Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties’ discriminatory, intimidating, and threatening conduct, Complainant and her minor children have suffered damages, including economic loss, loss of housing opportunities, inconvenience, and physical and emotional distress.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) (2004) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Sections 3604(a) and (c), and 3617 of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate the Fair Housing Act, as amended 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of race against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant [REDACTED] for her actual damages, inconvenience, and economic loss caused by Respondents’ discriminatory conduct pursuant to 42 U.S.C. § 3604(a) and (c); and
4. Assesses a civil penalty against Respondents for each violation of the Act that the Respondents have committed pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) (2004).

Respectfully submitted,



Ellen Dole
Regional Counsel, Region VIII



Matt Mussetter
Attorney Advisor

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Date: August 31, 2009

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)
██████████, and)
their minor children)
)
)
Charging Parties,)
)
v.)
)
)
Ann A. Wagner, Corey J. Anderson, Scott)
Terveen, Michael J. Terveen and TK)
Properties, LLC,)
)
Respondents.)
)
)
)
)

HUD ALJ No.

FHEO No. 08-09-0095-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On February 26, 2009, the Complainants, ██████████ and ██████████ (hereinafter the ██████████ or "Complainants") filed a verified complaint, as amended on May 25, 2009, (hereinafter the "HUD Complaint") with the United States Department of Housing and Urban Development (hereinafter the "Department"), alleging that Respondents Corey J. Anderson, Ann A. Wagner, Scott Terveen, Michael J. Terveen, and TK Properties, LLC (hereinafter "Respondents") violated the Fair Housing Act, as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (hereinafter the "Act"), by discriminating on the basis of race in violation of Sections 804(a), 804(b), 804(c) and 818 of the Act. 42 U.S.C. §§ 3604(a)-(c), 3617.

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 has delegated to the General Counsel (54 Fed.Reg. 13121), who has re-delegated to the Regional Counsel (73 Fed.Reg. 68442), the authority to issue such a charge, following a determination of

reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region VIII Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices based on race have occurred in this case, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned HUD Complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents Anderson, Wagner, Scott Terveen, Michael Terveen and TK Properties with discriminating against Complainants [REDACTED] and [REDACTED], aggrieved persons as defined by 42 U.S.C. § 3602 (i), based on race in violation of the Act as follows:

1. Pursuant to Section 3617, it shall be 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. § 3617; *see also* 24 C.F.R. §§ 100.400 (b), (c) (1-2).
2. Pursuant to Section 3604(a), it shall be unlawful for any person to refuse to sell or rent, or otherwise make unavailable or deny, a dwelling to any person because of race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.60 (b).
3. Pursuant to Section 3604(b), it shall be unlawful for any person to discriminate against any other 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 race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.65.

The Secretary charges Respondents TK Properties, Anderson, and Wagner with violations of the Act as follows:

4. Pursuant to Section 3604(c), it shall be unlawful for any person to make, or cause to be made any statement with regard to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604 (c); *see also* 24 C.F.R. § 100.75 (a).
5. Complainants [REDACTED] and [REDACTED] are Black.
6. Since at least December 1, 2008, Respondents Anderson and Wagner have been employed by Respondent TK Properties as on-site management personnel of the property commonly referred to as Lakeport Village Apartments, located at 5801 West Christopher Place, Sioux Falls, South Dakota (hereinafter the "Subject Property").

7. Since at least October 2008, Respondent Anderson has been employed by Respondent TK Properties for the purpose of conducting maintenance work at the Subject Property.
8. At all times relevant to this Charge, Respondent Anderson has possessed a key to each residential unit and garage at the Subject Property.
9. At all times relevant to this Charge, Respondents Anderson and Wagner have cohabitated in a unit at the Subject Property.
10. Since at least December 1, 2008, Respondents Anderson and Wagner's residential unit has been provided rent-free as employment compensation by Respondent TK Properties. In addition to a rent free unit, Respondents Anderson and Wagner received a monthly salary.
11. Respondent TK Properties is a limited liability company organized under the laws of the State of South Dakota. Respondent TK Properties was the registered owner of the Subject Property until July 30, 2009.
12. At all times relevant to this Charge, Respondent Scott Terveen, James Terveen and Respondent Michael Terveen were member-managers in Respondent TK Properties.
13. At all times relevant to this Charge, Respondent Scott Terveen assumed the most active role in the business affairs of Respondent TK Properties, including making final business decisions regarding the Subject Property, accepting rent payment, and issuing lease violations.
14. At all times relevant to this Charge, Respondent Michael Terveen has resided at the Subject Property in unit 207 of building 2.
15. At all times relevant to this Charge, Respondent Michael Terveen's active role in the business affairs of Respondent TK Properties was as member-manager contact person for maintenance matters arising at the Subject Property.
16. The Subject Property consists of three (3) separate apartment buildings with a total of 48 residential units. Each apartment building has three (3) stories containing 16 units.
17. Complainants moved to the Subject Property on September 1, 2007. At all times relevant to this Charge, Complainants [REDACTED] and [REDACTED] resided at the Subject Property with their four (4) children, three (3) of whom were minors.
18. On November 1, 2008, at approximately 2:50 PM, the Sioux Falls Police Department, responded to a telephone call from [REDACTED] regarding an altercation that was taking place in the parking area of the Subject Property. That argument was principally between [REDACTED]'s husband, [REDACTED], and James

Terveen, a member-manager of Respondent TK Properties (herein the November incident).

19. The November incident between [REDACTED] and James Terveen was heated and stemmed from a dispute between the two (2) men regarding a vehicle belonging to the [REDACTED].
20. James Terveen wanted the van moved from the parking spot where it was parked. Present during the November incident were Respondent Wagner (not yet employed by Respondent TK Properties), [REDACTED], [REDACTED], and James Terveen.
21. At the time of the November incident [REDACTED] informed the police that he legally possessed a concealed weapon.
22. Upon the police's arrival, [REDACTED] allowed Officer Carol to remove the gun from his possession. Officer Carol ran a check that showed [REDACTED] had a permit to carry the weapon, and the weapon was returned to him.
23. One week after the November incident, tenant [REDACTED] (hereinafter "[REDACTED]") overheard Respondents Wagner and Anderson referring to the [REDACTED] as "niggers" while further stating that the [REDACTED] possessed a weapon and that other tenants had better "watch your back," or words to that effect.
24. Tenant [REDACTED] heard both Respondents Anderson and Wagner make the above comment, or a similar one, repeatedly, including after December 1, 2008.
25. Tenant [REDACTED] (hereinafter "[REDACTED]") also heard Respondent Wagner make a comment referring to the [REDACTED] as "niggers" and that the [REDACTED] possessed a weapon, and other tenants had better "watch your back," or words to that effect after December 1, 2008.
26. Tenant [REDACTED] ("Tenant [REDACTED]" or "[REDACTED]"), one of Tenant [REDACTED]'s minor daughters, and another tenant, [REDACTED] ("Tenant [REDACTED]" or "[REDACTED]"), each heard the above comment or something similar relating to the "niggers" "having guns" from the Respondents Anderson and Wagner, including after December 1, 2008.
27. On December 1, 2008, Respondent TK Properties issued an announcement on company letterhead informing all tenants of the Subject Property that effective December 1, 2008, Respondent Cory Anderson would be the Lakeport Village On-Site Property Manager ("Property manager announcement").
28. Respondent Wagner added her name to the Property manager announcement above Respondent Anderson's name. Respondent Scott Terveen granted Respondent Wagner permission to do so.

29. At the time of the Property manager announcement, Respondents Anderson and Wagner lived in apartment unit 106, Tenant ██████ lived in apartment unit 206, Tenant ██████ lived in apartment unit 305 and the Complainants lived in apartment unit 306. Each of the aforementioned units is in building one (1) of the Subject Property.
30. In April 2009, Respondents Anderson and Wagner relocated to a unit in a different building of the Subject Property.
31. In May 2009, Tenant ██████ moved from the Subject Property due to the severity of Respondents Anderson and Wagner's conduct, as outlined in this Charge.
32. In June 2009, Complainants moved from the Subject Property due to the severity of the Respondents' conduct, as outlined in this Charge.
33. After the Property manager announcement was released, Respondents Anderson and Wagner told ██████ that neither Respondent liked the ██████ family and that they needed help, "getting rid of the niggers."
34. ██████ perceived Respondent Wagner's degrading comments about the ██████ as behavior intended to make other tenants at the Subject Property fearful of the ██████ family.
35. Respondent Wagner also fostered ill will between ██████ and the ██████ by, among other things, telling ██████ that the ██████s hated ██████ and her children.
36. Respondent Wagner repeatedly made loud and degrading comments about the ██████ within earshot of ██████, including calling them "niggers," "gang bangers," and stating "mother fuckers have a gun," or words to that effect.
37. Between October 2008 and early January 2009, ██████ filed between five (5) and six (6) complaints with management in order to address the elevated noise level she perceived to be coming from the Complainants' apartment.
38. On January 5, 2009, Complainant registered a noise complaint against the ██████ with the manager, Respondent Wagner (the "Noise incident").
39. Respondent Wagner came to ██████s unit and escorted ██████ to the Complainants' unit to determine the source of the noise.
40. Upon arriving at the ██████ unit, ██████ told Respondent Wagner and ██████ that ██████ had just returned from the hospital where he had "almost died."

41. Respondent Wagner proceeded to tell Complainant [REDACTED], "That's it," "you're done," "I've had enough," "I don't care if he almost died," and "you're out of here!" or words to that effect.
42. Upon leaving the [REDACTED] doorway, [REDACTED] and Respondent Wagner returned to [REDACTED] apartment.
43. There, Respondent Wagner urged [REDACTED] to file a report stating that the [REDACTED]'s son tried to attack [REDACTED]. [REDACTED] refused to file such a report with the police, and told Respondent Wagner that doing so would be a false report against one of the Complainants' sons.
44. Respondent Wagner retorted that she needed [REDACTED] help in "getting these fucking niggers out of here," or words to that effect.
45. Nonetheless, the Sioux Falls Police were called to the Subject Property by Respondent Wagner who claimed that Complainants' son, [REDACTED], had threatened and attacked [REDACTED].
46. [REDACTED] was asked by police whether she felt threatened by [REDACTED]. She stated that she did not feel threatened. No charges were filed in the Noise incident.
47. Later that evening, after the Noise incident, [REDACTED] spoke with the Complainants. Complainants informed her that [REDACTED] was on dialysis because of organ failure. Complainant also learned that the earlier noise was caused by [REDACTED] dialysis machine having fallen on the floor. Complainant came to the realization that the [REDACTED] did not hate her or her children, as Respondent Wagner had led her to believe.
48. On February 11, 2009, the Sioux Falls Police Department was called regarding an incident in the laundry room of the Subject Property between [REDACTED], a minor, and Respondent Anderson (the "Laundry incident").
49. [REDACTED] and his sister, [REDACTED] a minor, were sent to the Subject Property laundry room with one (1) dollar in quarters by their mother, [REDACTED], and instructed to put a load of laundry in the washer.
50. [REDACTED] inserted the money into the machine's coin receptor; but, the quarters were lodged in the receptor without proper discharge for payment. [REDACTED] attempted to retrieve the quarters from the receptor. While doing so, Respondent Anderson, on his way to the maintenance room – accessed through the laundry room – viewed [REDACTED] with his hand in the coin receptor
51. Respondent Anderson accused [REDACTED] of stealing, or attempting to steal monies deposited in the machine's receptor. [REDACTED] explained to Respondent Anderson

that he attempted to retrieve his own quarters which he had placed into the receptor, but which had not been properly deposited.

52. Respondent Anderson called the Sioux Falls Police to report theft from the laundry room by ██████████, with Officer Cook responding to the call.
53. ██████████ relayed the same facts to Officer Cook that he had relayed to Respondent Anderson: mainly that he was trying to retrieve his quarters that were stuck without deposit.
54. Respondent Anderson did not see ██████████ open the money receptor on the laundry machine, but did see ██████████ with his hand in the receptor. Nothing was taken from the machine, there was no damage to the machine and nothing was missing.
55. Anderson insisted that a report be filed by Officer Cook on the Laundry incident, "due to past problems with the tenants in unit 306."
56. Soon after the Laundry incident, Respondent Anderson told another tenant, ██████████, that ██████████ had been stealing from the laundry room.
57. On May 29, 2009, Officer Heitkamp of the Sioux Falls Police Department was referred by Respondent Anderson to Respondent Scott Terveen for final determination of whether to charge ██████████ for crimes relating to the Laundry incident (hereinafter "Follow-up report").
58. Respondent TK Properties, by and through its owner, Scott Terveen, instructed Officer Heitkamp to seek prosecution in the Laundry incident case because, "We [management] had had multiple problems with ██████████."
59. On or about February 19, 2009, tenant ██████████, and Respondent Wagner were arguing in public, within earshot of Complainant ██████████, while on the Subject Property when Respondent Wagner stated, "Do you know the difference between a black person and a nigger? The difference is the niggers living upstairs in 306," or words to that effect.
60. ██████████ and another tenant, ██████████ (hereinafter "██████████"), both heard the above comment, or words to that effect, made by Respondent Wagner and Respondent Wagner's use of racially derogatory references of the Complainants during the argument.
61. On or about February 20, 2009, Complainants, ██████████, and ██████████ left the Subject Property and drove to the Sioux Falls Housing and Redevelopment Commission (hereinafter "Housing Authority").

62. While leaving the Subject Property [REDACTED] and [REDACTED], who were driving together, witnessed Respondents Anderson and Wagner intently staring at them as they drove away.
63. At the Housing Authority, [REDACTED], the [REDACTED], and [REDACTED] spent several hours relaying the discriminatory, intimidating, and harassing behavior of Respondents Anderson and Wagner since the Respondents began their employment with Respondent TK Properties.
64. Before leaving the Housing authority [REDACTED] and [REDACTED] were informed that the Denver HUD office was contacted to initiate the fair housing inquiries that led to the issuance of this Charge.
65. One day later, February 21, 2009, the Complainants and [REDACTED] reported to the police that neither of their units had any heat (the "Heat incident").
66. Because everyone else residing at the Subject Property appeared to have heat in their units, the Complainants and [REDACTED] believe the lack of heat was intentional.
67. The responding officer, Bridget O'Toole was told by Complainant [REDACTED] that the managers were discriminating against the [REDACTED]s on the basis of their race, Black.
68. The Complainants' minor son, [REDACTED], informed Officer O'Toole that Respondents Anderson and Wagner had made the comment "niggers upstairs" in reference to the [REDACTED], who, at the time, lived above the Respondents Anderson and Wagner.
69. [REDACTED] also relayed to Officer O'Toole that the managers were calling the [REDACTED] thieves and were threatening people at the Subject Property.
70. Respondents Anderson and Wagner were not present at the Subject Property at the time of the Heat incident. Both Respondents Anderson and Wagner assert that they were in Fargo, North Dakota.
71. Unable to contact Respondent Anderson regarding the Heat incident, the Sioux Falls Police located Respondent Michael Terveen of Respondent TK Properties to take care of the situation.
72. Respondent Michael Terveen was able to get [REDACTED] and the [REDACTED] heat turned back on in their respective units.
73. The same day of the Heat incident, February 21, 2009, [REDACTED] received a telephone text message from Respondent Wagner, "is it true you were with [REDACTED] yesterday at housing, we have never done anything 2 u or your family-y r u against us?" (the "Text message").

74. Complainants were more fearful of Respondents Anderson and Wagner upon hearing of the Text message.
75. Complainants' fear of the Respondents Anderson and Wagner was exacerbated by ██████ having previously received multiple verbal warnings from Respondent Wagner regarding the growing feud between the Respondents Anderson and Wagner, ██████ and the Complainants.
76. These previous verbal warnings to ██████ included, "if you've got our back, we've got your back," and "as long as you don't go against us, you don't have anything to worry about," or words to that effect.
77. Respondent Anderson also told ██████, "you'd better watch your back ██████ [██████] is a liar, causing trouble, she will take that knife and stick it in your back, too," or words to that effect.
78. Furthermore, ██████ had previously been informed that Respondent Anderson had an extensive criminal record, including past violent crimes.
79. On or about, February 22, 2009, the day following both the Heat incident and the Text message, Complainants learned that Respondent Wagner had threatened ██████. Respondent Wagner had left ██████ a vulgarity-laced voicemail message stating that it would take "every ounce in my body" to "take you [██████] out of here," (the "Voicemail").
80. On the following day, Monday, February 23, 2009, ██████ reported the Voicemail to the Sioux Falls Police Department. The police department listened to the Voicemail and recommended that ██████ file for a protective order against Respondent Wagner.
81. Soon after receiving the Voicemail, ██████, along with her friend ██████ (hereinafter "██████") met with Respondent Michael Terveen in his unit at the Subject Property for approximately 30 minutes (the "Meeting").
82. During the Meeting ██████ informed Respondent Michael Terveen that the management, Respondents Anderson and Wagner, were engaging in racism, discrimination, harassment and intimidation directed at tenants of the Subject Property.
83. Respondent Michael Terveen informed ██████ and ██████ that Respondents Anderson and Wagner were accusing ██████ of stalking them.
84. ██████ told Respondent Michael Terveen that her problems with Respondents Anderson and Wagner were derived from her defending the ██████s and from not

accepting their frequent derogatory use of the word “nigger” when referring to the [REDACTED].

85. [REDACTED] also played the Voicemail for Respondent Michael Terveen during the meeting.
86. Soon after, [REDACTED] informed the [REDACTED] of the meeting with Respondent Michael Terveen; specifically, that she had relayed the problems that [REDACTED], the Complainants, and [REDACTED] were having with Respondents Anderson and Wagner.
87. Sometime that day, after [REDACTED] and [REDACTED] left Respondent Michael Terveen’s apartment, Respondent Michael Terveen telephoned fellow TK Properties member-manager, Respondent Scott Terveen, to inform Respondent Scott Terveen about the Voicemail.
88. Thereafter, Respondent Scott Terveen telephoned Respondent Wagner and informed her that she was being fired from her position as manager of the Subject Property because she was “too much of a liability.”
89. Respondent Wagner generated a written petition for her reinstatement and asked tenants of the Subject Property to sign it; about half of the tenants did so.
90. Respondent Scott Terveen explained to Respondent Wagner that if she wanted to continue living rent-free in her shared apartment with Anderson, she would need to continue doing the management work at the Subject Property.
91. No new management has been hired since Respondent Wagner’s “firing.”
92. Respondent Wagner performed managerial duties after she was “fired.” These duties included assisting prospective tenants in the application process, assisting new tenants during the move in process, and continuing her possession of tenant files stored in the apartment she shares with Respondent Anderson.
93. On the day of Respondent Wagner’s alleged firing, Respondent Michael Terveen text messaged [REDACTED] stating, “Ann [Respondent Wagner] is fired, watch your tires.”
94. [REDACTED] replied, asking whether the Respondents Anderson and Wagner had also been evicted, to which Respondent Michael Terveen replied, “No.” [REDACTED] told Respondent Michael Terveen that people were “scared” of the Respondents Anderson and Wagner, and Respondent Michael Terveen replied, “I’m scared too.”
95. Around the same time, Respondent Anderson told another tenant, [REDACTED] (hereinafter [REDACTED]), “I’m sick of her [REDACTED] talking shit about my being racist, and if she doesn’t stop, I’ll punch her in the mouth to shut her up. I’m not afraid to go back to jail. I’ve been there before and they know me. If I go, I would only do a

107. The judge presiding over the Protection hearing elected not to grant the order. However, she stated that if any threat by Respondent Anderson against [REDACTED] occurred after the hearing then the order would be granted. [REDACTED] and [REDACTED] both testified in the Protection hearing.
108. On March 20, 2009, the same day as the Protection hearing, Respondent Wagner approached the wife of [REDACTED] (hereinafter [REDACTED]) at his residence.
109. While there, Respondent Wagner informed [REDACTED] wife that [REDACTED] was having an affair with Tenant [REDACTED]. Consequently, [REDACTED] wife went into a state of hysteria. [REDACTED] denies having an affair with [REDACTED].
110. At the time of this incident, [REDACTED] was aware of the ongoing discrimination, harassment and intimidation because [REDACTED] had told him about it.
111. The following Monday, March 23, 2009, [REDACTED] telephoned Respondent Scott Terveen in order to complain about Respondent TK Properties employee, Respondent Wagner.
112. [REDACTED] was able to reach Respondent Scott Terveen directly. [REDACTED] relayed Respondent Wagner's conversation with [REDACTED] wife to Respondent Scott Terveen.
113. [REDACTED] specifically attributed Respondent Wagner's probable motivation as being retaliatory, particularly against [REDACTED].
114. [REDACTED] also relayed to Respondent Scott Terveen that Respondents Anderson and Wagner were participating in ongoing racial discrimination toward a Black family living at the Subject Property, and consequential harassment and intimidation directed toward white tenants who defended that Black family.
115. [REDACTED] further explained to Respondent Scott Terveen that Respondent TK Properties, as the owner of the Subject Property and as the employer of the Respondents Anderson and Wagner, would be responsible for Respondents Anderson and Wagner's conduct.
116. Respondent Scott Terveen told [REDACTED] that he knew there were problems with the management at the Subject Property. Respondent Scott Terveen apologized for Respondent Wagner's behavior toward [REDACTED] wife and told [REDACTED] that he would, "Take care of it," or words to that effect.
117. Respondent S. Terveen did not state that Respondent Wagner was not employed by Respondent TK Properties during his conversation with [REDACTED]

weekend,” or words to that effect. [REDACTED] informed [REDACTED] of what Respondent Anderson had said.

96. Soon after hearing what Respondent Anderson told [REDACTED] Tenant [REDACTED] went to [REDACTED] apartment to tell her about the threats of violence.
97. [REDACTED] then filed for a temporary protective order with the county court against Respondent Anderson; a hearing was scheduled for March 20, 2009 (the “Protection hearing”).
98. On four (4) occasions prior to the Protection hearing, [REDACTED] witnessed Respondent Anderson punching his fist while [REDACTED] walked by Respondent Anderson’s unit on the way to her vehicle.
99. Also in mid-March 2009, [REDACTED] overheard Respondent Wagner make deliberate and caustic remarks toward [REDACTED] while [REDACTED] and Respondent Wagner were both in the parking lot of the Subject Property.
100. These remarks included, “dick, you fucking bitch, slut, whore,” and “keep your fucking mouth shut,” or words to that effect, all while Respondent Wagner shook her fist and extended her middle finger toward [REDACTED].
101. Thereafter [REDACTED] and [REDACTED] called the police from [REDACTED] apartment. The police came to the Subject Property in response to the call and informed [REDACTED] that until a temporary protection order was in place, Respondent Wagner was free to interact with [REDACTED].
102. Again in mid-March 2009, Respondent Anderson walked up behind [REDACTED] and said, “You better watch out or I’ll beat the shit out of you too, you better watch out,” or words to that effect.
103. On or about March 13, 2009, [REDACTED] called Respondent Scott Terveen three (3) times, attempting to detail the ongoing race discrimination, harassment and intimidation by Respondents Anderson and Wagner.
104. Unable to speak to Respondent Scott Terveen directly, [REDACTED] left voice messages detailing the ongoing problems with discrimination and intimidation that she was having with Respondents Anderson and Wagner.
105. Tenant [REDACTED] called Respondent Scott Terveen again, on March 16 and 24, 2009, and on April 6, 2009, again leaving voice messages. Respondent Scott Terveen did not return any of Tenant [REDACTED]’s phone calls.
106. Tenant [REDACTED] also specified in at least one of these voicemail messages that she needed a management signature on her Housing Authority paperwork in preparation for her leaving the Subject Property due to the ongoing harassment.

129. Respondents Anderson, Wagner, and TK Properties violated Section 804(c) of the Act by indicating a “preference, limitation, or discrimination based on race....” 42 U.S.C. § 3604(c).
130. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 804(a) of the Act by making unavailable and denying Complainants their dwelling place at the Subject Property. 42 U.S.C. § 3604(a).
131. Through treats of eviction based upon race, Respondents Wagner and TK Properties violated Section 804(b) of the Act by discriminating in the terms, conditions, and privileges of the rental of Complainants’ dwelling place at the Subject Property. 42 U.S.C. § 3604(b).
132. As a result of Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties’ discriminatory, intimidating, and threatening conduct, Complainants and their children have suffered damages, including economic loss, loss of housing opportunities, inconvenience, and physical and emotional distress.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) (2004) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Sections 3604(a), 3604(b), 3604(c), and 3617 of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate the Fair Housing Act, as amended 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of race against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainants [REDACTED] and [REDACTED] [REDACTED] for their actual damages, inconvenience, and economic loss caused by Respondents’ discriminatory conduct pursuant to 42 U.S.C. §§ 3604(a), (b) and (c), and 3617; and
4. Assesses a civil penalty against Respondents for each violation of the Act that the Respondents have committed pursuant to 42 U.S.C. §3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) (2004).

Respectfully submitted,

Ellen Dole

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Matt Mussetter

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Date: August 31, 2009

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)
██████████, and)
their minor children)
)
Charging Parties,)
)
v.)
)
Ann A. Wagner, Corey J. Anderson, Scott)
Terveen, Michael J. Terveen and TK)
Properties, LLC,)
)
Respondents.)

HUD ALJ No.

FHEO No. 08-09-0095-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On February 26, 2009, the Complainants, ██████████ and ██████████ (hereinafter the ██████████ or "Complainants") filed a verified complaint, as amended on May 25, 2009, (hereinafter the "HUD Complaint") with the United States Department of Housing and Urban Development (hereinafter the "Department"), alleging that Respondents Corey J. Anderson, Ann A. Wagner, Scott Terveen, Michael J. Terveen, and TK Properties, LLC (hereinafter "Respondents") violated the Fair Housing Act, as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (hereinafter the "Act"), by discriminating on the basis of race in violation of Sections 804(a), 804(b), 804(c) and 818 of the Act. 42 U.S.C. §§ 3604(a)-(c), 3617.

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 has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegateed to the Regional Counsel (73 Fed.Reg. 68442), the authority to issue such a charge, following a determination of

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████████████████████

reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region VIII Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices based on race have occurred in this case, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned HUD Complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents Anderson, Wagner, Scott Terveen, Michael Terveen and TK Properties with discriminating against Complainants [REDACTED] and [REDACTED], aggrieved persons as defined by 42 U.S.C. § 3602 (i), based on race in violation of the Act as follows:

1. Pursuant to Section 3617, it shall be 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. § 3617; *see also* 24 C.F.R. §§ 100.400 (b), (c) (1-2).
2. Pursuant to Section 3604(a), it shall be unlawful for any person to refuse to sell or rent, or otherwise make unavailable or deny, a dwelling to any person because of race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.60 (b).
3. Pursuant to Section 3604(b), it shall be unlawful for any person to discriminate against any other 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 race. 42 U.S.C. § 3604(a); *see also* 24 C.F.R. § 100.65.

The Secretary charges Respondents TK Properties, Anderson, and Wagner with violations of the Act as follows:

4. Pursuant to Section 3604(c), it shall be unlawful for any person to make, or cause to be made any statement with regard to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604 (c); *see also* 24 C.F.R. § 100.75 (a).
5. Complainants [REDACTED] and [REDACTED] are Black.
6. Since at least December 1, 2008, Respondents Anderson and Wagner have been employed by Respondent TK Properties as on-site management personnel of the property commonly referred to as Lakeport Village Apartments, located at 5801 West Christopher Place, Sioux Falls, South Dakota (hereinafter the "Subject Property").

7. Since at least October 2008, Respondent Anderson has been employed by Respondent TK Properties for the purpose of conducting maintenance work at the Subject Property.
8. At all times relevant to this Charge, Respondent Anderson has possessed a key to each residential unit and garage at the Subject Property.
9. At all times relevant to this Charge, Respondents Anderson and Wagner have cohabitated in a unit at the Subject Property.
10. Since at least December 1, 2008, Respondents Anderson and Wagner's residential unit has been provided rent-free as employment compensation by Respondent TK Properties. In addition to a rent free unit, Respondents Anderson and Wagner received a monthly salary.
11. Respondent TK Properties is a limited liability company organized under the laws of the State of South Dakota. Respondent TK Properties was the registered owner of the Subject Property until July 30, 2009.
12. At all times relevant to this Charge, Respondent Scott Terveen, James Terveen and Respondent Michael Terveen were member-managers in Respondent TK Properties.
13. At all times relevant to this Charge, Respondent Scott Terveen assumed the most active role in the business affairs of Respondent TK Properties, including making final business decisions regarding the Subject Property, accepting rent payment, and issuing lease violations.
14. At all times relevant to this Charge, Respondent Michael Terveen has resided at the Subject Property in unit 207 of building 2.
15. At all times relevant to this Charge, Respondent Michael Terveen's active role in the business affairs of Respondent TK Properties was as member-manager contact person for maintenance matters arising at the Subject Property.
16. The Subject Property consists of three (3) separate apartment buildings with a total of 48 residential units. Each apartment building has three (3) stories containing 16 units.
17. Complainants moved to the Subject Property on September 1, 2007. At all times relevant to this Charge, Complainants [REDACTED] and [REDACTED] resided at the Subject Property with their four (4) children, three (3) of whom were minors.
18. On November 1, 2008, at approximately 2:50 PM, the Sioux Falls Police Department, responded to a telephone call from [REDACTED] regarding an altercation that was taking place in the parking area of the Subject Property. That argument was principally between [REDACTED]'s husband, [REDACTED], and James

Terveen, a member-manager of Respondent TK Properties (herein the November incident).

19. The November incident between [REDACTED] and James Terveen was heated and stemmed from a dispute between the two (2) men regarding a vehicle belonging to the [REDACTED].
20. James Terveen wanted the van moved from the parking spot where it was parked. Present during the November incident were Respondent Wagner (not yet employed by Respondent TK Properties), [REDACTED], [REDACTED], and James Terveen.
21. At the time of the November incident [REDACTED] informed the police that he legally possessed a concealed weapon.
22. Upon the police's arrival, [REDACTED] allowed Officer Carol to remove the gun from his possession. Officer Carol ran a check that showed [REDACTED] had a permit to carry the weapon, and the weapon was returned to him.
23. One week after the November incident, tenant [REDACTED] (hereinafter "[REDACTED]") overheard Respondents Wagner and Anderson referring to the [REDACTED] as "niggers" while further stating that the [REDACTED] possessed a weapon and that other tenants had better "watch your back," or words to that effect.
24. Tenant [REDACTED] heard both Respondents Anderson and Wagner make the above comment, or a similar one, repeatedly, including after December 1, 2008.
25. Tenant [REDACTED] (hereinafter "[REDACTED]") also heard Respondent Wagner make a comment referring to the [REDACTED] as "niggers" and that the [REDACTED] possessed a weapon, and other tenants had better "watch your back," or words to that effect after December 1, 2008.
26. Tenant [REDACTED] ("Tenant [REDACTED]" or "[REDACTED]"), one of Tenant [REDACTED]'s minor daughters, and another tenant, [REDACTED] ("Tenant [REDACTED]" or "[REDACTED]"), each heard the above comment or something similar relating to the "niggers" "having guns" from the Respondents Anderson and Wagner, including after December 1, 2008.
27. On December 1, 2008, Respondent TK Properties issued an announcement on company letterhead informing all tenants of the Subject Property that effective December 1, 2008, Respondent Cory Anderson would be the Lakeport Village On-Site Property Manager ("Property manager announcement").
28. Respondent Wagner added her name to the Property manager announcement above Respondent Anderson's name. Respondent Scott Terveen granted Respondent Wagner permission to do so.

29. At the time of the Property manager announcement, Respondents Anderson and Wagner lived in apartment unit 106, Tenant [REDACTED] lived in apartment unit 206, Tenant [REDACTED] lived in apartment unit 305 and the Complainants lived in apartment unit 306. Each of the aforementioned units is in building one (1) of the Subject Property.
30. In April 2009, Respondents Anderson and Wagner relocated to a unit in a different building of the Subject Property.
31. In May 2009, Tenant [REDACTED] moved from the Subject Property due to the severity of Respondents Anderson and Wagner's conduct, as outlined in this Charge.
32. In June 2009, Complainants moved from the Subject Property due to the severity of the Respondents' conduct, as outlined in this Charge.
33. After the Property manager announcement was released, Respondents Anderson and Wagner told [REDACTED] that neither Respondent liked the [REDACTED] family and that they needed help, "getting rid of the niggers."
34. [REDACTED] perceived Respondent Wagner's degrading comments about the [REDACTED] as behavior intended to make other tenants at the Subject Property fearful of the [REDACTED] family.
35. Respondent Wagner also fostered ill will between [REDACTED] and the [REDACTED] by, among other things, telling [REDACTED] that the [REDACTED]s hated [REDACTED] and her children.
36. Respondent Wagner repeatedly made loud and degrading comments about the [REDACTED] within earshot of [REDACTED], including calling them "niggers," "gang bangers," and stating "mother fuckers have a gun," or words to that effect.
37. Between October 2008 and early January 2009, [REDACTED] filed between five (5) and six (6) complaints with management in order to address the elevated noise level she perceived to be coming from the Complainants' apartment.
38. On January 5, 2009, Complainant registered a noise complaint against the [REDACTED] with the manager, Respondent Wagner (the "Noise incident").
39. Respondent Wagner came to [REDACTED]'s unit and escorted [REDACTED] to the Complainants' unit to determine the source of the noise.
40. Upon arriving at the [REDACTED] unit, [REDACTED] told Respondent Wagner and [REDACTED] that [REDACTED] had just returned from the hospital where he had "almost died."

41. Respondent Wagner proceeded to tell Complainant [REDACTED], "That's it," "you're done," "I've had enough," "I don't care if he almost died," and "you're out of here!" or words to that effect.
42. Upon leaving the [REDACTED] doorway, [REDACTED] and Respondent Wagner returned to [REDACTED] apartment.
43. There, Respondent Wagner urged [REDACTED] to file a report stating that the [REDACTED] son tried to attack [REDACTED]. [REDACTED] refused to file such a report with the police, and told Respondent Wagner that doing so would be a false report against one of the Complainants' sons.
44. Respondent Wagner retorted that she needed [REDACTED] help in "getting these fucking niggers out of here," or words to that effect.
45. Nonetheless, the Sioux Falls Police were called to the Subject Property by Respondent Wagner who claimed that Complainants' son, [REDACTED], had threatened and attacked [REDACTED].
46. [REDACTED] was asked by police whether she felt threatened by [REDACTED]. She stated that she did not feel threatened. No charges were filed in the Noise incident.
47. Later that evening, after the Noise incident, [REDACTED] spoke with the Complainants. Complainants informed her that [REDACTED] was on dialysis because of organ failure. Complainant also learned that the earlier noise was caused by [REDACTED] dialysis machine having fallen on the floor. Complainant came to the realization that the [REDACTED] did not hate her or her children, as Respondent Wagner had led her to believe.
48. On February 11, 2009, the Sioux Falls Police Department was called regarding an incident in the laundry room of the Subject Property between [REDACTED], a minor, and Respondent Anderson (the "Laundry incident").
49. [REDACTED] and his sister, [REDACTED] a minor, were sent to the Subject Property laundry room with one (1) dollar in quarters by their mother, [REDACTED], and instructed to put a load of laundry in the washer.
50. [REDACTED] inserted the money into the machine's coin receptor; but, the quarters were lodged in the receptor without proper discharge for payment. [REDACTED] attempted to retrieve the quarters from the receptor. While doing so, Respondent Anderson, on his way to the maintenance room – accessed through the laundry room – viewed [REDACTED] with his hand in the coin receptor
51. Respondent Anderson accused [REDACTED] of stealing, or attempting to steal monies deposited in the machine's receptor. [REDACTED] explained to Respondent Anderson

that he attempted to retrieve his own quarters which he had placed into the receptor, but which had not been properly deposited.

52. Respondent Anderson called the Sioux Falls Police to report theft from the laundry room by ██████████, with Officer Cook responding to the call.
53. ██████████ relayed the same facts to Officer Cook that he had relayed to Respondent Anderson: mainly that he was trying to retrieve his quarters that were stuck without deposit.
54. Respondent Anderson did not see ██████████ open the money receptor on the laundry machine, but did see ██████████ with his hand in the receptor. Nothing was taken from the machine, there was no damage to the machine and nothing was missing.
55. Anderson insisted that a report be filed by Officer Cook on the Laundry incident, "due to past problems with the tenants in unit 306."
56. Soon after the Laundry incident, Respondent Anderson told another tenant, ██████████, that ██████████ had been stealing from the laundry room.
57. On May 29, 2009, Officer Heitkamp of the Sioux Falls Police Department was referred by Respondent Anderson to Respondent Scott Terveen for final determination of whether to charge ██████████ for crimes relating to the Laundry incident (hereinafter "Follow-up report").
58. Respondent TK Properties, by and through its owner, Scott Terveen, instructed Officer Heitkamp to seek prosecution in the Laundry incident case because, "We [management] had had multiple problems with ██████████."
59. On or about February 19, 2009, tenant ██████████, and Respondent Wagner were arguing in public, within earshot of Complainant ██████████, while on the Subject Property when Respondent Wagner stated, "Do you know the difference between a black person and a nigger? The difference is the niggers living upstairs in 306," or words to that effect.
60. ██████████ and another tenant, ██████████ (hereinafter "██████████"), both heard the above comment, or words to that effect, made by Respondent Wagner and Respondent Wagner's use of racially derogatory references of the Complainants during the argument.
61. On or about February 20, 2009, Complainants, ██████████, and ██████████ left the Subject Property and drove to the Sioux Falls Housing and Redevelopment Commission (hereinafter "Housing Authority").

62. While leaving the Subject Property [REDACTED] and [REDACTED], who were driving together, witnessed Respondents Anderson and Wagner intently staring at them as they drove away.
63. At the Housing Authority, [REDACTED], the [REDACTED], and [REDACTED] spent several hours relaying the discriminatory, intimidating, and harassing behavior of Respondents Anderson and Wagner since the Respondents began their employment with Respondent TK Properties.
64. Before leaving the Housing authority [REDACTED] and [REDACTED] were informed that the Denver HUD office was contacted to initiate the fair housing inquiries that led to the issuance of this Charge.
65. One day later, February 21, 2009, the Complainants and [REDACTED] reported to the police that neither of their units had any heat (the "Heat incident").
66. Because everyone else residing at the Subject Property appeared to have heat in their units, the Complainants and [REDACTED] believe the lack of heat was intentional.
67. The responding officer, Bridget O'Toole was told by Complainant [REDACTED] that the managers were discriminating against the [REDACTED]s on the basis of their race, Black.
68. The Complainants' minor son, [REDACTED], informed Officer O'Toole that Respondents Anderson and Wagner had made the comment "niggers upstairs" in reference to the [REDACTED], who, at the time, lived above the Respondents Anderson and Wagner.
69. [REDACTED] also relayed to Officer O'Toole that the managers were calling the [REDACTED] thieves and were threatening people at the Subject Property.
70. Respondents Anderson and Wagner were not present at the Subject Property at the time of the Heat incident. Both Respondents Anderson and Wagner assert that they were in Fargo, North Dakota.
71. Unable to contact Respondent Anderson regarding the Heat incident, the Sioux Falls Police located Respondent Michael Terveen of Respondent TK Properties to take care of the situation.
72. Respondent Michael Terveen was able to get [REDACTED] and the [REDACTED] heat turned back on in their respective units.
73. The same day of the Heat incident, February 21, 2009, [REDACTED] received a telephone text message from Respondent Wagner, "is it true you were with [REDACTED] yesterday at housing, we have never done anything 2 u or your family-y r u against us?" (the "Text message").

74. Complainants were more fearful of Respondents Anderson and Wagner upon hearing of the Text message.
75. Complainants' fear of the Respondents Anderson and Wagner was exacerbated by [REDACTED] having previously received multiple verbal warnings from Respondent Wagner regarding the growing feud between the Respondents Anderson and Wagner, [REDACTED] and the Complainants.
76. These previous verbal warnings to [REDACTED] included, "if you've got our back, we've got your back," and "as long as you don't go against us, you don't have anything to worry about," or words to that effect.
77. Respondent Anderson also told [REDACTED], "you'd better watch your back [REDACTED] [REDACTED] is a liar, causing trouble, she will take that knife and stick it in your back, too," or words to that effect.
78. Furthermore, [REDACTED] had previously been informed that Respondent Anderson had an extensive criminal record, including past violent crimes.
79. On or about, February 22, 2009, the day following both the Heat incident and the Text message, Complainants learned that Respondent Wagner had threatened [REDACTED]. Respondent Wagner had left [REDACTED] a vulgarity-laced voicemail message stating that it would take "every ounce in my body" to "take you [REDACTED] out of here," (the "Voicemail").
80. On the following day, Monday, February 23, 2009, [REDACTED] reported the Voicemail to the Sioux Falls Police Department. The police department listened to the Voicemail and recommended that [REDACTED] file for a protective order against Respondent Wagner.
81. Soon after receiving the Voicemail, [REDACTED], along with her friend [REDACTED] a (hereinafter "[REDACTED]") met with Respondent Michael Terveen in his unit at the Subject Property for approximately 30 minutes (the "Meeting").
82. During the Meeting [REDACTED] informed Respondent Michael Terveen that the management, Respondents Anderson and Wagner, were engaging in racism, discrimination, harassment and intimidation directed at tenants of the Subject Property.
83. Respondent Michael Terveen informed [REDACTED] and [REDACTED] that Respondents Anderson and Wagner were accusing [REDACTED] of stalking them.
84. [REDACTED] told Respondent Michael Terveen that her problems with Respondents Anderson and Wagner were derived from her defending the [REDACTED]s and from not

accepting their frequent derogatory use of the word “nigger” when referring to the [REDACTED].

85. [REDACTED] also played the Voicemail for Respondent Michael Terveen during the meeting.
86. Soon after, [REDACTED] informed the [REDACTED] of the meeting with Respondent Michael Terveen; specifically, that she had relayed the problems that [REDACTED], the Complainants, and [REDACTED] were having with Respondents Anderson and Wagner.
87. Sometime that day, after [REDACTED] and [REDACTED] left Respondent Michael Terveen’s apartment, Respondent Michael Terveen telephoned fellow TK Properties member-manager, Respondent Scott Terveen, to inform Respondent Scott Terveen about the Voicemail.
88. Thereafter, Respondent Scott Terveen telephoned Respondent Wagner and informed her that she was being fired from her position as manager of the Subject Property because she was “too much of a liability.”
89. Respondent Wagner generated a written petition for her reinstatement and asked tenants of the Subject Property to sign it; about half of the tenants did so.
90. Respondent Scott Terveen explained to Respondent Wagner that if she wanted to continue living rent-free in her shared apartment with Anderson, she would need to continue doing the management work at the Subject Property.
91. No new management has been hired since Respondent Wagner’s “firing.”
92. Respondent Wagner performed managerial duties after she was “fired.” These duties included assisting prospective tenants in the application process, assisting new tenants during the move in process, and continuing her possession of tenant files stored in the apartment she shares with Respondent Anderson.
93. On the day of Respondent Wagner’s alleged firing, Respondent Michael Terveen text messaged [REDACTED] stating, “Ann [Respondent Wagner] is fired, watch your tires.”
94. [REDACTED] replied, asking whether the Respondents Anderson and Wagner had also been evicted, to which Respondent Michael Terveen replied, “No.” [REDACTED] told Respondent Michael Terveen that people were “scared” of the Respondents Anderson and Wagner, and Respondent Michael Terveen replied, “I’m scared too.”
95. Around the same time, Respondent Anderson told another tenant, [REDACTED] (hereinafter [REDACTED]), “I’m sick of her [REDACTED] talking shit about my being racist, and if she doesn’t stop, I’ll punch her in the mouth to shut her up. I’m not afraid to go back to jail. I’ve been there before and they know me. If I go, I would only do a

107. The judge presiding over the Protection hearing elected not to grant the order. However, she stated that if any threat by Respondent Anderson against [REDACTED] occurred after the hearing then the order would be granted. [REDACTED] and [REDACTED] both testified in the Protection hearing.
108. On March 20, 2009, the same day as the Protection hearing, Respondent Wagner approached the wife of [REDACTED] (hereinafter [REDACTED]) at his residence.
109. While there, Respondent Wagner informed [REDACTED] wife that [REDACTED] was having an affair with Tenant [REDACTED]. Consequently, [REDACTED] wife went into a state of hysteria. [REDACTED] denies having an affair with [REDACTED].
110. At the time of this incident, [REDACTED] was aware of the ongoing discrimination, harassment and intimidation because [REDACTED] had told him about it.
111. The following Monday, March 23, 2009, [REDACTED] telephoned Respondent Scott Terveen in order to complain about Respondent TK Properties employee, Respondent Wagner.
112. [REDACTED] was able to reach Respondent Scott Terveen directly. [REDACTED] relayed Respondent Wagner's conversation with [REDACTED] wife to Respondent Scott Terveen.
113. [REDACTED] specifically attributed Respondent Wagner's probable motivation as being retaliatory, particularly against [REDACTED].
114. [REDACTED] also relayed to Respondent Scott Terveen that Respondents Anderson and Wagner were participating in ongoing racial discrimination toward a Black family living at the Subject Property, and consequential harassment and intimidation directed toward white tenants who defended that Black family.
115. [REDACTED] further explained to Respondent Scott Terveen that Respondent TK Properties, as the owner of the Subject Property and as the employer of the Respondents Anderson and Wagner, would be responsible for Respondents Anderson and Wagner's conduct.
116. Respondent Scott Terveen told [REDACTED] that he knew there were problems with the management at the Subject Property. Respondent Scott Terveen apologized for Respondent Wagner's behavior toward [REDACTED] wife and told [REDACTED] that he would, "Take care of it," or words to that effect.
117. Respondent S. Terveen did not state that Respondent Wagner was not employed by Respondent TK Properties during his conversation with [REDACTED]

weekend,” or words to that effect. [REDACTED] informed [REDACTED] of what Respondent Anderson had said.

96. Soon after hearing what Respondent Anderson told [REDACTED] Tenant [REDACTED] went to [REDACTED] apartment to tell her about the threats of violence.
97. [REDACTED] then filed for a temporary protective order with the county court against Respondent Anderson; a hearing was scheduled for March 20, 2009 (the “Protection hearing”).
98. On four (4) occasions prior to the Protection hearing, [REDACTED] witnessed Respondent Anderson punching his fist while [REDACTED] walked by Respondent Anderson’s unit on the way to her vehicle.
99. Also in mid-March 2009, [REDACTED] overheard Respondent Wagner make deliberate and caustic remarks toward [REDACTED] while [REDACTED] and Respondent Wagner were both in the parking lot of the Subject Property.
100. These remarks included, “dick, you fucking bitch, slut, whore,” and “keep your fucking mouth shut,” or words to that effect, all while Respondent Wagner shook her fist and extended her middle finger toward [REDACTED].
101. Thereafter [REDACTED] and [REDACTED] called the police from [REDACTED] apartment. The police came to the Subject Property in response to the call and informed [REDACTED] that until a temporary protection order was in place, Respondent Wagner was free to interact with [REDACTED].
102. Again in mid-March 2009, Respondent Anderson walked up behind [REDACTED] and said, “You better watch out or I’ll beat the shit out of you too, you better watch out,” or words to that effect.
103. On or about March 13, 2009, [REDACTED] called Respondent Scott Terveen three (3) times, attempting to detail the ongoing race discrimination, harassment and intimidation by Respondents Anderson and Wagner.
104. Unable to speak to Respondent Scott Terveen directly, [REDACTED] left voice messages detailing the ongoing problems with discrimination and intimidation that she was having with Respondents Anderson and Wagner.
105. Tenant [REDACTED] called Respondent Scott Terveen again, on March 16 and 24, 2009, and on April 6, 2009, again leaving voice messages. Respondent Scott Terveen did not return any of Tenant [REDACTED]’s phone calls.
106. Tenant [REDACTED] also specified in at least one of these voicemail messages that she needed a management signature on her Housing Authority paperwork in preparation for her leaving the Subject Property due to the ongoing harassment.

129. Respondents Anderson, Wagner, and TK Properties violated Section 804(c) of the Act by indicating a “preference, limitation, or discrimination based on race....” 42 U.S.C. § 3604(c).
130. Respondents Anderson, Wagner, Scott Terveen, Respondent Michael Terveen, and TK Properties violated Section 804(a) of the Act by making unavailable and denying Complainants their dwelling place at the Subject Property. 42 U.S.C. § 3604(a).
131. Through treats of eviction based upon race, Respondents Wagner and TK Properties violated Section 804(b) of the Act by discriminating in the terms, conditions, and privileges of the rental of Complainants’ dwelling place at the Subject Property. 42 U.S.C. § 3604(b).
132. As a result of Respondents Anderson, Wagner, Scott Terveen, Michael Terveen, and TK Properties’ discriminatory, intimidating, and threatening conduct, Complainants and their children have suffered damages, including economic loss, loss of housing opportunities, inconvenience, and physical and emotional distress.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) (2004) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Sections 3604(a), 3604(b), 3604(c), and 3617 of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate the Fair Housing Act, as amended 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of race against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainants [REDACTED] and [REDACTED] [REDACTED] for their actual damages, inconvenience, and economic loss caused by Respondents’ discriminatory conduct pursuant to 42 U.S.C. §§ 3604(a), (b) and (c), and 3617; and
4. Assesses a civil penalty against Respondents for each violation of the Act that the Respondents have committed pursuant to 42 U.S.C. §3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) (2004).

Respectfully submitted,

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