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 Jimmy Lewis Crump, Charging Party, v. Neysa C. Crim, Respondent.	)	**FHEO No. 04-05-0234-8**

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about November 30, 2004, Jimmy Lewis Crump, an aggrieved person, filed a verified complaint[1] (the " HUD complaint") with the U.S. Department of Housing and Urban Development ("HUD") alleging that Neysa C. Crim violated the Fair Housing Act as amended in 1988, 42 U.S.C. §§ 3601 *et seq.* (the "Act" or "Fair Housing Act") by discriminating against him on the basis of race and/or color in violation of 42 U.S.C. §§ 3604(a) and (d), and by making discriminatory statements in relation to the rental of a dwelling in violation of 42 U.S.C. § 3604(c).

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) and (2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has redelegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a Charge, following a determination of reasonable cause by the Assistant Secretary for the Office of Fair Housing and Equal Opportunity (FHEO) or her designee. The FHEO Region IV Director, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case based on race and/or color, and has authorized the issuance of this Charge of Discrimination.

[1] On or about February 15, 2006, the complaint was amended to add an allegation of a violation of 42 U.S.C. § 3604(c) of the Act.

II. SUMMARY OF THE ALLEGATIONS THAT SUPPORT THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondent Neysa C. Crim is charged with discriminating against Complainant Jimmy Lewis Crump, an aggrieved person as defined by 42 U.S.C. § 3602(i), based on race and/or color in violation of 42 U.S.C. § 3604(a),(c), and (d), as follows:

A. Legal Authority

1. It is unlawful to refuse to rent, after making a bona fide offer, refuse to negotiate the rental of, or otherwise make unavailable or deny a dwelling to any person because of race or color. 42 U.S.C. § 3604(a).

2. It is unlawful to make, print or publish, or to cause the making, printing or publishing of any notice, statement, or advertisement with respect to the rental of a dwelling that indicates any preference, limitation or discrimination based on race or color, or an intention to make any preference, limitation, or discrimination. 42 U.S.C. § 3604(c).

3. It is unlawful to represent to any person because of race or color that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available. 42 U.S.C. § 3604(d).

B. Parties and Subject Property

4. At all times relevant to this Charge, Respondent was the owner and manager of several rental properties. Respondent is a former licensed real estate broker and had advertised real estate for sale and/or rent. Respondent is in the "business of selling or renting dwellings." 42 U.S.C. § 3603(c).

5. At all times relevant to this Charge, Respondent also owned the home she lived in and owned and/or had an ownership interest in at least four other single family homes.

6. The subject property is a detached single family two-bedroom house which is located at 615 East Moulton Street, Decatur, Alabama 35601 and a "dwelling" as defined by the Act. 42 U.S.C. § 3602(b).

7. At all times relevant to this Charge, Respondent was the owner and manager of the subject property and had her home telephone number posted on the "For Rent" sign she displayed there.

8. At the time his complaint was initially filed with HUD, Complainant was a single fifty year-old African American (Black) male who lived in Huntsville, Alabama.

C. Other Factual Allegations

9. Shortly after moving to Huntsville, Complainant accepted a job with a major commercial trucking company in Decatur, approximately 30 miles from Huntsville.

10. After his new job in Decatur started, sometime in early October of 2004, Complainant began his search for a place to rent. Shortly thereafter, Complainant located the subject property for rent.

11. Complainant located the subject property after starting his new job and observing a sign in the yard of a house in a local neighborhood. Complainant found that the house was ideal because it: (a) was the proper size for him; (b) was near his job; and (c) had a carport.

12. There was a "For Rent" sign posted in the yard of the subject property and it had the Respondent's telephone number posted on it. Complainant called the number 3 or 4 times to inquire about renting the dwelling. Each time Complainant tried to call the number, he got a voice recording that indicated he should leave a message. Nearly every time Complainant called, he left a message that included his interest in renting the house and his telephone number for a return call. Complainant never received a return call from Respondent.

13. On at least one occasion, after he had tried to call the posted number a few times more and failed to receive a response, Complainant drove by the subject property and noticed two women sitting on the porch. Complainant got out of his vehicle, walked up to the two women he saw talking, and asked if the house was still for rent. The rental sign was still posted in the yard.

14. The older Caucasian (White) female introduced herself as the owner of the property, and stated that the house was not yet rented but the lady she was with had the first choice for the rental. Complainant left.

15. Although Complainant never received a return call to any of his initial telephone inquiries and messages about the subject property; he remained interested in renting it. Due to his concern about not receiving a response to his calls, Complainant spoke to his supervisor at work about his concerns.

16. On or about October 28, 2004, Complainant spoke to his supervisor, a Caucasian (White) female, at work, about his interest in the subject property and his attempts to contact Respondent. Complainant told her about his interest in renting the property and the lack of any response. Complainant's supervisor offered to call the number and inquire about the rental.

17. On or about October 28, 2004, Complainant called Respondent's number, at which time Complainant again heard a voice mail message and left another message about his

interest in the rental and his telephone number. Complainant's supervisor then dialed the posted telephone number immediately thereafter. She also heard the voice mail message and as she was leaving a message, Respondent answered the telephone and identified herself as the owner of the property. Complainant's supervisor advised the owner that she was inquiring about the rental property for a friend.

18. Respondent asked Complainant's supervisor: "What color is he?" Complainant's supervisor asked Respondent what she meant. Respondent stated: "Is he Black or White?" Complainant's supervisor told Respondent: "...that federal housing laws prohibited her from asking such a question." Respondent stated she could ask it and she did not want a black renting the house because it was a predominately white neighborhood and she did not want her neighbors trashing or damaging her property because she had rented to a black. Respondent also told Complainant's supervisor that it was her right to ask these questions and refuse to rent to anyone she wanted to. Respondent also stated that she could do a background check on Complainant and obtain information on him that "nobody else could."

19. Complainant's supervisor told Respondent that Complainant was of good character, and had a stable job and income, in order to persuade Respondent to speak to Complainant because Respondent's comments were derogatory toward blacks and indicated she was reluctant to rent to blacks.

20. After additional discussion with Complainant's supervisor, Respondent agreed to speak with Complainant. Complainant's supervisor remained on the telephone on another extension and continued to listen to the conversation that took place between Respondent and Complainant.

21. Respondent asked a series of questions, including who Complainant intended to vote for in the upcoming 2004 Presidential election and advised him that his answer may make a difference as to whether she would rent to him. Complainant stated he was voting for the same person Respondent was. Respondent stated that she doubted that. Respondent also asked about what furniture he had, if he had pets or drank or did drugs.

22. After a lengthy conversation with Respondent, Complainant told Respondent that he wanted to look at the house and informed her that he started work at 5 p.m. Respondent stated that she could show the house the next day after 5 p.m. Complainant told her it would be difficult to meet her during those hours but he could meet her earlier and Complainant's supervisor told him it was ok if he was a few minutes late for work. Complainant and Respondent scheduled to meet each other the next day, at five o'clock on Friday, October 29, 2004, in order to view the subject property.

23. Based on Complainant's previous discussions and encounters with Respondent, Complainant continued his search for a rental property, and due to his reasonable expectation that his meeting with Respondent would be fruitless, Complainant placed a

$500.00 deposit on an alternate property prior to his meeting with Respondent. Later that day, Complainant went to the subject property to meet Respondent and inspect the rental property, as scheduled.

24. During HUD's investigation, Respondent admitted that when she met Complainant at the subject property she recognized him as the man who approached her and her friend at the subject property. Respondent reiterated to Complainant that the lady with whom she was speaking that day had first priority as she was Respondent's friend.

25. Respondent allowed Complainant to walk through and see the subject property. While he was doing so, Respondent explained to Complainant what she would and would not permit. She also told him some of her requirements, including the monthly rental amount and the deposit required. Complainant was very uncomfortable during this meeting because he believed Respondent was making so many rules to deter him from renting the unit.

26. Respondent told Complainant that the subject property was for rent for $525.00 per month and a third of that amount, approximately $175.00, was due as a "down payment." She stated that the $175.00 was comprised of the application fee, security deposit and background check and that she returns all but $35.00, which is the application fee. She explained that otherwise the remaining amount is assumed into the first month's rent.

27. Complainant wanted to rent the subject property and told Respondent that he had cash with him and could put down a deposit that day. Respondent would not give him a receipt.

28. Complainant told Respondent he could get a check because he did not feel comfortable giving her the money without a receipt. Respondent stated that she did not accept anything but cash until she checked references and the payment of the deposit "...would be based on trust." Respondent stated that she "...preferred that the renter did not smoke or drink whiskey and be a church-oriented person." Respondent also told Complainant that she required $35.00 for a background check and that she could find out information that only an organization such as the "FBI" would have.

29. Respondent stated that she did not know what her friend would decide but Complainant could call during the weekend. Complainant was unable to call at that time because he was out of town. After Complainant returned from his trip, he and Respondent had one last conversation; however, by then he had rented the property he had already placed a deposit on. This dwelling was rented for $500.00 per month, was smaller than the subject property and did not have a carport.

30. HUD's investigation revealed that the property remained available for a period of time after the last conversation between Complainant and Respondent.

31. Complainant was humiliated and embarrassed as a result of Respondent's statements and actions, during his inquiries about and his attempts to rent Respondent's property. Complainant suffered sleepless nights, was unable to eat at times, became emotionally distraught and withdrawn and found it difficult to deal with his feelings.

32. Complainant Jimmy Lewis Crump has suffered significant damages, including, but not limited to, economic loss, physical and emotional distress, inconvenience, embarrassment, humiliation, and the loss of a housing opportunity as a result of Respondent's discriminatory conduct.

E. Fair Housing Act Violations

33. By failing to respond to and consider Complainant's telephone inquiries about the subject property, asking what race and/or color Complainant was in connection with the rental of a dwelling and stating she did not want a "black" renting the subject property, refusing to provide a receipt for the required cash deposit and asking Complainant personal questions unrelated to the rental of the dwelling and Complainant's qualifications to rent because of race and/or color, Respondent Neysa C. Crim violated 42 U.S.C. § 3604(a).

34. By asking what race and/or color Complainant was in connection with the rental of a dwelling and stating that she did not want a "black" renting the subject property, Respondent Neysa C. Crim violated 42 U.S.C. § 3604(c).

35. By providing, through her speech and conduct, limited information to Complainant because of his race and/or color when she asked what race and/or color he was and stated that she did not want a "black" renting her house, Respondent Neysa C. Crim falsely represented that the subject property was not available to Complainant in violation of 42 U.S.C. § 3604(d).

III. CONCLUSION

Wherefore, the Secretary of HUD, through the Office of General Counsel, and pursuant to 42 U.S.C. §§ 3610(g)(2)(A) and (g)(3), hereby charges Respondent with engaging in discriminatory housing practices as set forth above, and prays that an order be issued that:

A. Declares that Respondent's discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;

B. Enjoins Respondent, her agents, employees, and successors, and all other persons in active concert or participation with her, from discriminating against any person based on race and/or color in any aspect of the rental, sale, occupancy, use or enjoyment of a dwelling;

C. Awards such monetary damages as will fully compensate Complainant for his economic losses, including but not limited to, all out-of-pocket and medical expenses and for emotional distress, physical distress, embarrassment, humiliation, inconvenience and the loss of a housing opportunity and any and all other damages caused by the Respondent's discriminatory conduct;

D. Awards an $11,000 civil penalty against Respondent for each violation of the Act; and

E. Awards such additional relief as may be appropriate pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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