

Abraham Brandwein

Abraham Brandwein
Assistant Regional Counsel for Fair Housing
and Administrative Law
Office of Regional Counsel
Department of Housing and Urban Development

Date: 12/19/08

FOR THE COMPLAINANT

Mark Sabel

Mark Sabel, Esq.
Sabell & Sabell, P.C.
2800 Zelda Rd, Suite 100-5
Montgomery, AL 36106

Date: 12/18/2008

Christopher Ligatti

Christopher Ligatti
Attorney
Office of Regional Counsel
Department of Housing and Urban
Development

Date: 12/19/2008

FOR THE RESPONDENTS

Charles A. Stewart III

Charles A. Stewart III, Esq.
Bradley Arant Rose & White LLP
Alabama Center for Commerce
401 Adams Avenue, Suite 780
Montgomery, AL 36104

Date: 1/2/09

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

This matter arose from a complaint of discrimination filed by Complainant Melissa Jones on June 25, 2008, with the United States Department of Housing and Urban Development (hereinafter known as the "Department" or "HUD"), pursuant to the Fair Housing Act as amended in 1988 (hereinafter known as the "Fair Housing Act" or the "Act").

After investigating the complaint, the Department made the following findings. On or around March 1, 2008, Complainant, her fiancé, and her minor child entered into an agreement to lease a home from Respondents and moved onto the property located at 2179 Gilmer Avenue, Tallassee, AL. Sometime in or around June 2008, Respondents noticed Complainant and her fiancé talking to two African-American guests on the property. On June 22, 2008, Respondent Julie Williams informed Complainant that African Americans were not allowed on the property and that Complainant would have to move if she intended to have African-American visitors. These statements were repeated on at least two other occasions and Complainant eventually moved from the property on or around September 1, 2008. As a result of Respondents' conduct and statements, Complainant suffered severe emotional distress and other compensable injuries and Complainant and her family were forced to move to less desirable housing. These statements violated 42 U.S.C. § 3604(c) as they constituted statements that indicated a racial preference regarding Complainant's rental of the property. These statements also violated 42 U.S.C. § 3617 as they constituted coercion and intimidation designed to force Complainant to terminate her residence.

A hearing on the charges was scheduled for February 10-11, 2009. To avoid the expense and uncertainty of protracted litigation, Respondents agreed to resolve the above captioned case without a hearing. The Secretary, Complainant, and Respondents have consented to the entry of this Initial Decision and Consent Order (hereinafter "Consent Order") as indicated by the signature of the parties and counsel below.

II. GENERAL PROVISIONS

It is **HEREBY Ordered** that during the effective period of this Consent Order, Respondents, their heirs, executors, assigns, agents, employees, and successors, and all other persons in active concert or participation with them in the ownership or operation of the subject property and any other properties owned or managed by them, are permanently enjoined from any further violations of the Fair Housing Act. Respondents hereinafter promise and agree to comply with all the provisions of the Act relevant to the subject property and any other properties owned and/or managed by them.

Respondents acknowledge that the Act makes it unlawful to:

- A. Make unavailable or deny a dwelling unit to any person because of race, color, religion, national origin, sex, disability, or familial status; or refuse or fail to provide or offer information about a dwelling unit or to show or rent a dwelling unit to any person because of race, color, religion, national origin, sex, disability or familial status.
- B. Discriminate against any person in the terms, conditions, or privileges of rental of a dwelling unit, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, sex, disability or familial status.
- C. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the rental of a dwelling unit that states any preference, limitation or discrimination based upon race, color, religion, national origin, sex, disability or familial status.
- D. 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 section 3603, 3604, 3605, or 3606 of this title.
- E. Retaliate against the Complainant or any member of her family for the exercise of any right granted or protected by section 3603, 3604, 3605, or 3606 of this title.

Respondents further acknowledge that the above statements are not an exhaustive list of the prohibitions contained in the Fair Housing Act. Respondents agree not to discriminate against any future renters either directly or in terms of the guests which these renters might have.

III. SPECIFIC RELIEF

In exchange for the Charging Party's agreement to dismiss this Charge, Respondents Wilbur Michael Williams and Julie Williams shall jointly:

A. Pay the total sum of FIFTY THREE THOUSAND DOLLARS (\$53,000.00) to Complainant and her attorney for compensatory damages and attorney's fees.

B. Pay a civil penalty to the Government in the total sum of TEN THOUSAND DOLLARS (\$10,000.00).

C. Within ninety (90) days of the entry of this Consent Order by the Administrative Law Judge, Respondents shall make the payment described in Paragraph "A," above, to the address given below, with the check or checks made out in a manner to be designated by the Complainant:

Mark Sabel, Esq.
Sabel & Sabel, P.C.
2800 Zelda Rd, Suite 100-5
Montgomery, AL 36106

A copy of the certified check or checks made payable to Complainant Jones and/or Sabel & Sabel, P.C., shall be sent to the HUD's Regional Counsel at the following address:

Miniard Culpepper, Regional Counsel, Region I
U.S. Department of Housing and Urban Development
Office of the Regional Counsel
Tip O'Neill Federal Building

10 Causeway Street, Room 310
Boston, MA 02222

D. Within ninety (90) days of the entry of this Consent Order by the Administrative Law Judge, Respondents shall make the payment described in Paragraph "B," above, by certified or cashier's check made payable to "U.S. Department of Housing & Urban Development." Accompanying the check should be a cover letter indicating that the check is for the civil penalty and referencing both case numbers, HUD ALJ No. 08-083-FH and FHEO Case No. 04-08-1279-8, on both the cover letter and the check. The aforementioned payment should be mailed by Federal Express or certified mail to the following address:

Miniard Culpepper, Regional Counsel, Region I
U.S. Department of Housing and Urban Development
Office of the Regional Counsel
Tip O'Neill Federal Building
10 Causeway Street, Room 310
Boston, MA 02222

E. Within six (6) months of the entry of this Consent Order, Respondents Michael Wilbur Williams and Julie Williams must attend fair housing training to be conducted by a qualified fair housing enforcement agency. The training must cover their responsibility under federal, state and local fair housing laws, regulations and ordinances. Respondents are responsible for any and all costs, if any, associated with such fair housing training. Respondents may contact Attorney Christopher Ligatti at (617) 994-8252 for assistance in locating a qualified fair housing enforcement agency to conduct the required training. Respondents shall provide a certificate of completion to the Department, in the same form as that attached hereto as "Attachment A" and "Attachment B" evidencing that they have successfully completed the course. Respondents as well as the instructor conducting the training should sign and date the certificate of completion (Attachments A and B), and send it to HUD within thirty (30) days of completion of such course. The certificate of completion shall be mailed to the Department by regular mail to the following address:

Miniard Culpepper, Regional Counsel, Region I
U.S. Department of Housing and Urban Development
Office of the Regional Counsel
Tip O'Neill Federal Building
10 Causeway Street, Room 310
Boston, MA 02222

F. As additional consideration for Respondents' payment to Complainant, compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, and for other good and valuable consideration, Complainant agrees to DISMISS her complaint against Respondents Wilbur Michael Williams and Julie Williams upon receipt of the payments described in paragraphs "A" and "B," above.

IV. MUTUAL RELEASE

In consideration for Respondents' payment to Complainant, compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, and for other good and valuable consideration, Complainant, her successors, and assigns hereby forever waive, release, and covenant not to sue Respondents, their successors, heirs, executors, assigns, agents, employees, attorneys, or any subsequent owner of the subject property, with regard to any and all claims, damages, and injuries of whatever nature arising out of the subject matter of HUD ALJ No. 08-083-FH and FHEO Case No. 04-08-1279-8, or which could have been filed in any action or suit arising from said subject matter. This Consent Order does not in any way limit or restrict the Secretary's authority to investigate any subsequent complaints involving Respondents.

In consideration of the execution of this Consent Order, and other good and valuable consideration, Respondents, their successors, assigns, agents, employees, or any subsequent owner of the subject property, hereby forever waive, release, and covenant not to sue the Department or Complainant or their officers, successors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature arising out

of the subject matter of HUD ALJ No. 08-083-FH and FHEO Case No. 04-08-1279-8, or which could have been filed in any action or suit arising from said subject matter.

V. GENERAL PROVISIONS

- A. The parties acknowledge that this Consent Order is a voluntary and full settlement of the Charge. No party has been coerced, intimidated, threatened, or in any way forced to become a party to the Consent Order. The parties have read and fully understand the significance of all the terms set forth herein.
- B. The parties acknowledge that the terms set forth herein are contractual and not merely a recital of the parties' intentions. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations hereunder.
- C. The parties and their counsel agree that, in the interest of prompt conclusion of this matter, the execution of this Consent Order by the parties may be accomplished by separate execution of consents (the original executed Consent and Signature Pages) to be attached to the body of this Consent Order to constitute one document.
- D. The signatures of the parties to this Consent Order may be executed by way of facsimile transmission or e-mail and shall be deemed to be an executed and admissible Consent Order for all purposes as may be necessary under the terms of this Consent Order.
- E. The parties acknowledge this Initial Decision and Consent Order will become the final agency decision thirty (30) calendar days from the date it is issued by the HUD Administrative Law Judge (HUD ALJ) or earlier, if affirmed by the Secretary within that time. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period and a waiver of any right to challenge the validity of this Consent Order at any time.

F. The parties and their counsel agree that if the situation arises where a party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained by mutual agreement of the parties and all signatories or their successors in writing.

G. This Consent Order is binding upon Complainant, as well as upon Respondents and their employees, heirs, successors, assigns, and all others working for or associated with Respondents who are involved in the operation of the subject property, including any subsequent owners of the property.

H. It is understood that, according to 24 C.F.R. § 180.680 of the Act, this Consent Order shall be a public document.

I. Except as provided herein, the signatures of the parties to this Consent Order further constitutes a waiver of any right to apply for additional attorney's fees or costs pursuant to 24 C.F.R. § 180.705.

J. This Consent Order does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.

K. Respondents agree and understand that the Department, on request of Complainant, or on its own motion, may review compliance with this Consent Order. Respondents agree to provide full cooperation in any review undertaken by the Department to ensure compliance with this Consent Order.

L. Respondents' failure to satisfy the terms of this Consent Order is a breach of the Consent Order, which may be enforced in the United States Court of Appeals pursuant to 24 C.F.R. § 180.715.

VI. ADMINISTRATION

For purposes of this Consent Order, the effective date of this Initial Decision and Consent Order is the date that this Initial Decision and Consent Order is signed by the HUD ALJ. This Initial Decision and Consent Order is entered pursuant to 42 U.S.C. § 3612(e) and (g) and the regulations issued thereunder at 24 C.F.R. § 180.450. This Initial Decision and Consent Order shall become final upon the expiration of thirty (30) calendar days from the date of its issuance or affirmation by the Secretary within that time. 24 C.F.R. § 180.670(b)(2).

[Added by the Court]

An original, signed by the Parties, copy of this proposed Initial Decision and Consent Order was received by the Court on January 13, 2009. The Court notes that this document is numbered pages 3 through 15 and that those pages represent the totality of the document.

Furthermore, the Court also notes that it is not privy to how the amount described in part III.A. will be distributed (\$53,000 to Complainant and her attorney for compensatory damages and attorney's fees). Such information has not been provided to the Court. As such, in approving the proposed Initial Decision and Consent Order, the Court expresses no opinion in that regard.

It is so ORDERED: SIGNED THIS 13th day of January 2009.

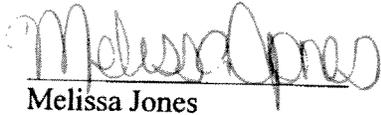


Alexander Fernández
Administrative Law Judge

CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 08-083-FH and FHEO Case No. 04-08-1279-8, and willingly consents to it with a full understanding of the rights it confers and the responsibilities it imposes on her, as signified by her signature below:

FOR COMPLAINANT:



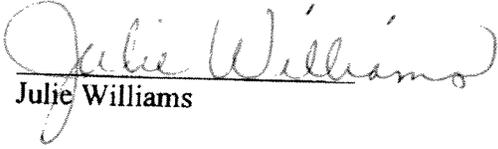
Melissa Jones

Date: 12/31/08

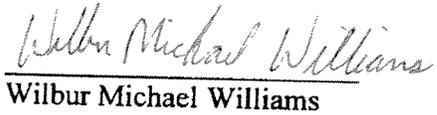
CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 08-083-FH and FHEO Case No. 04-08-1279-8, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes on them, as signified by his signature below:

FOR RESPONDENTS:


Julie Williams

Date: 12-31-08


Wilbur Michael Williams

Date: 12-31-08

CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 08-083-FH and FHEO Case No. 04-08-1279-8, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes on it, as signified by their signatures and that of their counsel, below:

FOR THE DEPARTMENT:



Miniard Culpepper
Regional Counsel for New England
Department of Housing and Urban Development
10 Causeway Street
Boston, MA 02222

Date: 1/2/08