

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 Angela M.
MacMahon and Dennis O. Sessions,

Charging Party,

v.

Silas Tucker, d/b/a Trailer Village 80 East,

Respondent.

Corrected: August 21, 2002

HUDALJ 04-98-0332-8

Decided: August 14, 2002

Silas Tucker,
Pro se

Steven J. Edelstein, Esq.
For the Charging Party

Before:
Constance T. O'Bryant
Administrative Law Judge

INITIAL DECISION

This matter arose from a complaint of housing discrimination filed under the Fair Housing Act, as amended, 42 U. S. C. §§ 3601-19 ("the Act"), by the United States Department of Housing and Urban Development ("HUD") on behalf of Angela M. MacMahon and Dennis O. Sessions ("the Complainants"). The Complainants alleged that Silas Tucker, doing business as Trailer Village 80 East ("Respondent" or "Mr. Tucker"), violated the Act by discriminating against them based on race. Following HUD's investigation, the Secretary found there was reasonable cause to believe that Respondent discriminated against the Complainants as alleged, in violation of 42 U. S. C. §§ 3604(a) and 3604(b). On October 18, 2001, the Secretary (hereinafter referred to as "the Charging Party") issued a Charge of Discrimination ("Charge") against Respondent

on these grounds. The matter came before the undersigned pursuant to 42 U. S. C. § 3612(b).

PROCEDURAL HISTORY

On December 14, 2001, the Charging Party served upon Respondent its First Set of Interrogatories, First Request for Admissions and First Request for Production of Documents. Respondent failed to comply with these discovery requests. Because Respondent failed to reply, the Charging Party, on January 2, 2002, filed a Motion to Compel Responses. Respondent did not respond to the Charging Party's motion; thus, on February 13, 2002, I issued an order requiring that Respondent answer "forthwith" the Charging Party's interrogatories, requests for admissions, and request for production of documents. The Order warned Respondent that his failure to comply with the Order might trigger the imposition of sanctions against him.

On March 15, 2002, the Charging Party filed a Motion for Sanctions in which it asserted that Respondent had failed to comply with the February 13, 2002, Order and moved for the imposition of sanctions in accordance with 24 C. F. R. 180.540(d), namely, that the factual allegations in the Charge be deemed established, and other sanctions I deemed appropriate. When by April 16, 2002, Respondent had not responded to the Charging Party's Motion for Sanctions, I issued an Order granting the Motion for Sanctions, and ordering that the allegations in the Charge be deemed established based upon Respondent's failure to cooperate in the discovery phase of the proceeding.

An evidentiary hearing was held on April 26, 2002. Respondent did not attend the hearing nor did anyone appear on his behalf. Upon motion of the Charging Party, I entered a Default Judgment against Respondent on the issue of his liability for the violations of the Act alleged in the Charge. The subsequent hearing was limited to the issue of appropriate remedy. Both Complainants testified and documentary evidence was admitted into the record. At the conclusion of the hearing, the Charging Party was given an opportunity to file a post-hearing brief, which it did on June 5, 2002.

The Charging Party seeks compensatory relief in the amount of \$81,709.92 and a civil penalty of \$11,000.00. It also seeks injunctive and other relief.

By letter dated June 10, 2002, Respondent requested that the case be reopened so that he might "have a trial and put on witnesses and evidence in [his] defense." In support of his motion, Respondent claimed lack of notice and opportunity to respond to the discovery requests as well as this court's orders. His motion to reopen the matter and set a new hearing was denied. However, I granted Respondent opportunity to file, on or

before July 5, 2002, a written statement and/or evidence in mitigation of damages. To date, no filing has been received from Respondent. Accordingly, the case is now ready for decision.

FINDINGS OF FACT

Complainant Angela MacMahon, is a 39-year-old White female. Complainant Dennis Sessions is a 35-year-old African-American male. Respondent, Silas Tucker, who is White, owns and operates "Trailer Village 80 East," a mobile home (or trailer) park located in Pearl, Mississippi. Charge ¶B3, B4; Tr. 14, 45.

During the summer of 1996, Ms. MacMahon planned to buy a mobile home. Prior to purchase she investigated places to park the trailer. She had a very large dog and knew that some parks did not allow dogs to be kept on the park site. She called different mobile parks and found one that did — Respondent's Trailer Village 80 East. She talked to Respondent who told her that it would be all right for her to have a dog at his trailer park. She thereafter visited the park and found Respondent friendly and the lot acceptable, so she decided to park the trailer there. Tr. 18.

In August 1996, Ms. MacMahon moved her mobile home into the Respondent's trailer park, Lot #5-B, pursuant to an oral, month-to-month lease. At that time, Respondent rented all of his lots on a month-to-month basis. He also required no written leases and had no written rules that governed tenancy in his park.

From approximately August 1996 to May 1997, Ms. MacMahon lived in Respondent's trailer park with a White female roommate. During that time she would often see and interact with Respondent. She paid the rent to him in person on a monthly basis. Moreover, her trailer was sited very close to the only road in and out of the park and in such a way that she would regularly see Respondent through her kitchen window as he drove by. He could clearly see her as well. Tr. 18-21; Charge ¶ III. C1, 2, & 3. Respondent continued to be friendly toward her. Ms. MacMahon had no problems at all with her neighbors and was happy living in the park.

In 1997, Ms. MacMahon met Mr. Sessions and began a relationship with him. From May 1997 to August 1997, they lived together as a couple in Mr. Sessions' home in an interracial neighborhood in nearby Mississippi. Charge ¶ III.C.4. However, in August 1997, Ms. MacMahon moved back into her trailer where she and Mr. Sessions continued to reside as a couple. Charge ¶ III.C.7.

Respondent was aware of Ms. MacMahon's relationship with Mr. Sessions and that they lived together. He saw them together at her trailer on a daily basis. Mr. Sessions often mowed the grass around the trailer, during which times he would see Respondent. On some occasions he tried to engage Respondent in conversation but to no avail. Further, Mr. Sessions owned a burgundy convertible car which he drove accompanied by Ms. MacMahon and which he parked at her trailer. The couple often encountered Respondent at the rental office when Mr. Sessions accompanied Ms. MacMahon to pay the rent.

After Ms. MacMahon allowed Mr. Sessions to live with her, Respondent's attitude changed toward Ms. MacMahon. He became rude towards her, avoided eye contact with her, and he took down a fence she had put up around her trailer. Tr. 19-21. Soon thereafter, he began to harass her: 1) He sent Ms. MacMahon a letter saying there were too many cars on the parking area; 2) Whereas he had previously spoken to her and had been friendly, he now "literally turn[ed] away from me, so he wouldn't look at me"; 3) If while walking he came upon her, he would turn and walk another way; and 4) He would have his secretary take the rent money whereas before he would do so himself. Ms. MacMahon felt insulted and "dirty" - as though she had done something wrong. Tr. 19-22. No other African-American had ever lived in Respondent's trailer park. Charge III.C.19.

On August 1, 1998, Respondent notified Ms. MacMahon that she would have to move out of his park by October 1, 1998. Respondent's notice stated: "I have to get behind your trailer to put sewage down. I don't want to damage you [sic] trailer. The City is bringing Sewage in." No other explanation was ever given to the Complainants as to why Respondent required them to move. Charge ¶ III.C.7. and III.C.8.

When Ms. MacMahon asked Respondent why she had to move because there was plenty of space behind her trailer for digging even if sewers had to be installed, Respondent told her that it was necessary. Accepting his explanation, but not wanting to be inconvenienced or to incur the expense of moving to a different park, Ms. MacMahon asked Respondent if she could move her trailer to one of several vacant lots in his mobile park. Respondent refused her request, telling her that the City would be installing sewer lines on the vacant lots as well. He told her that many other park residents would have to move as she did. Charge III.C.9. However, in the days following their conversation Ms. MacMahon talked to numerous other residents and not one single person had received the notice Ms. MacMahon received and none had even heard anything about sewer lines being put down in the park. Ms. MacMahon then came to realize that she had been the only one Respondent had asked to move. This realization caused her great embarrassment because she thought that her neighbors would probably believe that she was required to move out for something she had done.

On October 1, 1998, Complainants moved their trailer out of Respondent's park and into another trailer park. Charge, ¶ III. C.11. Although Respondent claimed that eight other park residents were required to move due to the installation of manholes and sewer lines, in fact no other park residents were required to move due to the City's alleged need to install manholes and sewer lines, or for any other reason. Charge III.C.12 & 13. And, despite Respondent's claim that he required Complainants to move because the City would be installing sewer lines and/or manholes on or near Lot #5-B, no such work was ever done. Charge. III.C.26. Further, after forcing the Complainants to move, and without any work having been done on the lot, Respondent permitted another trailer to occupy Ms. MacMahon's former lot. Charge. III. C. 23.

Ms. MacMahon incurred expenses related to her move. She hired movers to move her trailer at a cost of \$735.00, and had to replace the skirting¹ because the old skirting could not be reused because the site gradients were different at the two parks. She had to pay to have cable and air conditioning hooked up anew, telephones reconnected, electricity turned on, and for a new parking permit and inspection. Tr. 26-29.

After receiving the notice to move, Ms. MacMahon became "upset. I was mad. I didn't want to move . . . I was embarrassed because, you know, now they're [her neighbors] thinking well, she's getting kicked out of the trailer park. It was embarrassing." Tr. 24.-26.

Ms. MacMahon attended an integrated high school in Myrtle Beach, South Carolina where she had both Black and White friends and race was never an issue with her or with her family. Tr. 15. She described herself as a happy person during her high school and up until she was confronted by Respondent and forced to move out of the trailer park because she allowed Mr. Sessions to live there with her. This was the first time in her life that she had been a victim of discrimination and it had a profound impact upon her. Tr. 38.

Ms. MacMahon called her mother and cried. Tr. 38. She found herself crying a lot. She also experienced anger and fear. When she discussed the matter with her father, he mentioned that racism was not new to the area – that Klu Klux Klan members had once stood openly on the streets of Pearl, Mississippi, to collect money for their cause. Tr. 38. Hearing this made her very scared for her safety because she feared the kind of person who would hold such views, and she wondered whether Respondent was a member of the Klan. "I didn't know what kind of man he [Respondent] was, what kind of thoughts he had." Tr. 38.

¹ "Skirting" is that part of the trailer that covers up the block and brick beneath the trailer body, much like a bed ruffle or skirt. Tr. 31.

When the Complainants moved out of Respondent's trailer park in October 1998, they moved to a location where their daily route to work and school took them past Respondent's trailer park. Tr. 31. One day when Ms. MacMahon drove past Respondent's park, she noticed that another trailer was occupying Lot #5-B, her old lot. Seeing someone else's trailer there "devastated" her. Tr.32. Ms. MacMahon and Mr. Sessions frequently talked about their having to move from Respondent's park. Tr. 38. Both became emotional every time they would drive by. According to Ms. MacMahon: "I was mad every time I drove by, just having to be reminded every day that this was a totally unnecessary thing that happened." Tr. 32.

Ms. MacMahon had a difficult time accepting the fact that she was forced to move out of her chosen home location because she lived with a Black man. She began to suffer anxiety and depression. She testified that "[j]ust everything made me cry, and still does sometimes." Tr. 17. She saw her family physician who determined that she was suffering from depression and prescribed Zoloft, an anti-depressant medication. Although she continues to take Zoloft to treat her depression, she still finds that she is prone to crying over "just everything." She continues to be angry about what happened to her because of Respondent's bigotry – "We just shouldn't have been treated like that." Tr. 17, 35.

Ms. MacMahon was also made fearful by Respondent. She testified that in February 2000, during a visit to the park to take some pictures of the lot, Respondent attempted to ram her car with his truck. She was so frightened by the incident that she reported the matter to the police. Tr.35 ; CP #4 & 5. This incident, combined with what she had heard from her father about the KKK, caused her to be so fearful that she and Mr. Sessions began restricting their movements. They socialized far less frequently than before this incident, not knowing how many other White people who lived in the area might be like Respondent. Now, when they go out, it is usually to visit with Black people or to Black neighborhoods. Tr. 40.

Ms. MacMahon and Mr. Sessions are the parents of two children. Just thinking of the implication of racial discrimination on her children reduced Ms. MacMahon to tears. She is afraid for them — that they may come in contact with people like Respondent who could harm them. She wonders when she takes her children out to a restaurant and a White customer gets up to leave, whether it is because the customer has finished his meal or because he, like Respondent, is disgusted with being around Black people. Tr. 42-43

Mr. Sessions grew up in Natchez, Mississippi, and in New Orleans where he experienced significant race discrimination. Tr. 45. At the age of six or seven, he saw his brother killed by a drunken driver. The driver was White and so were the police who came to investigate the accident. He remembers that the police were very attentive to the White driver but showed no concern for his deceased brother or his mother and grandmother. In the end, the driver was not punished for causing the death of his brother.

Tr. 45. He also experienced race discrimination in school and in his neighborhood where he heard racial epithets and where some of his White schoolmates were forbidden to play with him. Nevertheless, he had had a few White friends prior to his experience with Ms. MacMahon. Tr. 46-48.

Mr. Sessions realized that race discrimination was the likely reason for Respondent's request that they move the trailer when Respondent told them they could not move the trailer to one of the vacant lots, and this realization made him very angry. Tr. 50. Ms. MacMahon described his reaction this way:

He was mad. He was furious. He wanted to – he wanted to do something, and there's nothing to do. I mean, filling out a form [the HUD 903] and sending it doesn't feel like you're doing anything, you know. He was angry. He talked about it all the time. Every time we'd pass by [Respondent's trailer park], he'd get mad. Tr. 41.

Mr. Sessions testified that he was upset, and wanted to physically retaliate against Respondent, but he did not. He was so upset that he would curse when he drove by the park. The hardest part to him was watching Angela suffer. He cared very much for her and it hurt him to watch her go through emotional ups and downs, knowing that there was nothing he could do about it. This was very tough on him. He wanted to fight somebody or "cuss somebody out," so it was very frustrating for him to contain these emotions. Tr. 51-52. At the time of the hearing he was participating in an anger management program, where he was told to write and talk about his feelings of anger. Although thoughts of the incident still aroused feelings of anger, he believed that he was becoming better at dealing with his feelings. Tr. 54.

The incident has taken a toll on Mr. Sessions in other ways. Although he had had friends of both races in the past, he began shying away from his White friends. He testified that "right now in my life. . . I don't have any White friends" because he does not trust them as he once did. Tr. 54.

DISCUSSION

The Charging Party has the burden of proving discrimination by a preponderance of the evidence. In this case, liability was established upon the entry of a default judgment against Respondent. The uncontested evidence shows that housing discrimination, based on race, occurred in this case. Thus, I find that Respondent, Silas Tucker, d/b/a Trailer Village 80 East, violated 42 U. S. C. § 3604(a) and § 3604(b), as charged when he, using the installation of manholes and sewer lines as a pretext for discriminating on the basis of race, forced the Complainants to move out of his trailer park. I find, further, that because of Respondent's discriminatory conduct, Complainants suffered damages, including out-of-pocket damages and damages for emotional distress.

REMEDIES

After finding that a respondent has violated the Act, the judge may order “such relief as may be appropriate.” 42 U. S. C. § 3612(g)(3). Such relief may include damages for intangible injuries, such as emotional distress, embarrassment, humiliation and inconvenience, as well as damages for tangible or “out-of-pocket” losses caused by the discrimination.

Intangible Effects of the Discrimination

While the amount of damages should make the victim whole, *see HUD v. Blackwell*, FH-FL ¶ 25,001 (HUDALJ 1989), affirmed 908 F. 2d 864, 872 (11th Cir. 1990), courts have also recognized that the “indignity associated with housing discrimination,” while compensable, is also difficult to quantify. *See Phillips v. Hunter Trails Community Ass’n*, 685 F. 2d 184 (7th Cir. 1982). The Charging Party, thus, is not required to prove the actual dollar value of a complainant’s injury. *See Heifetz and Heinz, Separating the Objective, the Subjective, and the Speculative: Assessing Compensatory Damages in Fair Housing Adjudications*, 26 J. Marshall L. Rev. 3, 17 (1992). *See also Schwemm, Housing Discrimination: Law & Litigation* § 25:4 (rev. Sept. 2001).

While administrative law judges are afforded broad discretion in ascertaining the amount of emotional distress damages to award to a complainant, they are guided by two factors: 1) the egregiousness of the respondent’s behavior, and 2) the effect of that behavior on the complainant. *HUD v. Kocerka*, FH-FL ¶ 25,138 (HUDALJ 1999), *citing HUD v. Sams*, FH-FL ¶ 25,069 at p. 25,651 HUDALJ 1994).

Complainants, both credible witnesses, testified to having suffered severe emotional trauma as a consequence of Respondent’s discriminatory acts. In Ms. MacMahon’s case, this was the first act of discrimination that she had personally experienced. She was devastated and angry when she was forced out of the housing location that she desired because of Respondent’s bigotry. Whereas before, she had moved about in the community unmindful of people with racist views, she now is beset with the knowledge that there are Whites who seem to her to be normal in every way and treat her with respect, but who can turn ugly and hateful to her upon learning that she is a part of an interracial family. She had lived in the same trailer park with a White roommate and had been welcomed there, yet she became the object of hate and scorn when she allowed a Black person to move in. This knowledge pains her greatly, especially because she can not tell who might hold these racist views or when and where she might encounter them. She no longer knows who she can trust when she is perceived as part of an interracial couple.

Before Respondent discriminated against her, she could move about the community without fear of intimidation. Now she is in constant fear for herself, for Mr. Sessions, and for their children. Her belief that there might be KKK members in town has increased her level of anxiety. She cries all the time and finds it difficult to sleep

Ms. MacMahon was so distressed and anxiety-ridden over the incidents involving Respondent that she sought professional help. Her doctor diagnosed severe depression and prescribed Zoloft. At the time of the hearing, some four years after the act of discrimination, Ms. MacMahon remained under treatment. And, despite the treatment, her depression continues. Remembrance of the incidents still causes her to cry, especially when her thoughts turn to her children and the possible discrimination they might encounter as they grow older.

As to Mr. Sessions, the discrimination by Respondent Tucker has had a severe long-term impact. He became so angry about the discrimination suffered at the hands of Respondent Tucker that he wanted to strike out physically against him. Initially, he turned inward, keeping his feelings to himself. This caused his anger to fester and led to tension in his relationship with Ms. MacMahon and other family and close friends. Further, although he had experienced racial discrimination in the past, he had lived and worked among Whites with whom he had developed a friendship. His experience with Respondent Tucker caused him to begin to distrust other Whites with whom he interfaced and led to his distancing himself from his White friends. He found himself in a constant state of anger. At the time of the hearing, Mr. Sessions was in his second anger management course, both necessitated, to a significant degree, by the racial discrimination he experienced by Respondent Tucker.

The Charging Party seeks \$60,000.00 for Ms. MacMahon and \$20,000.00 for Mr. Sessions as compensation for the intangible harm caused by Respondent's discriminatory conduct. An award of \$60,000.00 for Ms. MacMahon's emotional suffering and \$20,000.00 for Mr. Sessions' emotional distress is, in each case, consistent with amounts awarded in similar cases.

In *HUD v. Tucker*, FH-FL ¶ 25,033 (HUDALJ 1992), a case closely analogous to this one, the respondent was ordered to pay \$100,000.00 to the complainants, an interracial couple (the wife was White and the husband was Black). In *HUD v. Kocerka*, FH-FL ¶ 25,138 (HUDALJ 1999), a total of \$90,000.00 was awarded to an interracial couple for intangible damages they suffered after the landlord of an apartment they wanted to rent told the woman (White) over the telephone that he did not want Blacks in his building. In *HUD v. Timmons*, FH-FL ¶ 25,149 (HUDALJ 2000), a total of \$60,000 was awarded to a White couple when a property owner, who had agreed to rent an apartment to them, changed his mind after seeing the couple's adopted Black child.

In *Broome v. Biondi*, 2 FH-FL (P-H), ¶16,240 (1998), an interracial couple sought to sublet an apartment. The husband, who was Black, was interviewed by the condominium board and felt the members' hostility. There was no direct evidence of racial hostility. The jury awarded each of the couple \$114,000 for emotional distress, and the reviewing court found there was enough evidence to sustain the award. In *Portee v. Hastava*, 853 F. Supp. 597 (E.D.N.Y.1994) *aff'd*, 104 F.3d 349 (2d Cir. 1996), the White woman of an interracial couple, with a five-year-old child, made a contract with the defendant realtors to lease a dwelling. When the man of the couple, who was Black, came to sign the lease, the realtors backed out of the deal. The jury awarded \$208,000 to the interracial couple and their son for compensatory damages. On retrial the court reduced the amount to \$101,000.

I conclude that an award of \$60,000.00 for Ms. MacMahon's emotional suffering and \$20,000.00 for Mr. Sessions' emotional distress is appropriate considering the egregiousness of Respondent's conduct, and the lingering effect that Respondent's behavior has had on both of the Complainants. Moreover, Respondent has not challenged the appropriateness of the requested damages. Accordingly, these amounts will be awarded.

Out-of-Pocket Expenses

The Charging Party seeks a total of \$1,709.92 in out-of-pocket expenses necessitated by the Complainant's move to a different trailer park location. This amount includes \$725.00 Ms. MacMahon paid movers to mover her trailer to a new location; \$101.96 for new skirting for the mobile home; \$38.51 to reconnect her cable TV; \$329.45 for the service of an electrician; \$95.00 to establish electrical service; \$55.00 for inspection and a permit; \$300.00 to disconnect and reconnect air conditioning; and \$65.00 to for the installation of new telephone service. See CP 2; Tr. 26-31. The full \$1,709.92 will be awarded.

Civil Penalty

To vindicate the public interest and deter future discriminatory conduct, the administrative law judge is authorized to assess a civil penalty against a respondent who has violated the Act. 42 U. S. C. § 3612(g)(3). *See also* 24 C. F. R. § 180.671.

The Charging Party requests that the maximum civil penalty be imposed on Respondent. In a case such as this where there is no evidence that the Respondent has been found guilty of a prior discriminatory housing practice, the maximum penalty that can

be assessed is \$11,000.00. 42 U. S. C. § 3612(g)(3)(A). *See also* 24 C. F. R. § 180.671 (a)(1).

Determining the appropriate penalty requires consideration of the following factors: 1) the nature and circumstances of the violation; 2) the degree of the respondent's culpability; 3) the goal of deterrence; 4) the respondent's financial condition; and 5) other matters that justice may require. *See HUD v. Schmid*, FH-FL ¶ 25,139 at 26,153 (HUDALJ 1999).

There is no evidence on the record before me that Respondent is unable to pay the maximum civil penalty, therefore, the maximum penalty will be considered.

The nature and circumstances of the violation were egregious. The unchallenged evidence demonstrates that Respondent deliberately discriminated against the Complainants based on race by requiring them to move their mobile home under the guise that their move was necessitated by a City mandate. He was friendly toward Ms. MacMahon while a White female lived in the trailer with her. However, he had never rented space in his trailer park to a Black person, (*see* Charge ¶ III.C.19), and it soon became clear that he had fabricated a reason to get Ms. MacMahon and Mr. Sessions to move from his property. Thereafter, he treated Ms. MacMahon with such contempt that she felt embarrassed, humiliated and devalued as a person.

On this record, Respondent is solely culpable for the discriminatory acts. He devised the scheme to require Complainants to vacate his property and repeatedly lied to her about his motives. Furthermore, he drove his truck at Ms. MacMahon in a menacing manner, intending to intimidate her for no other reason than that she associated with Black people.

In assessing an appropriate penalty, the goal of deterrence must be considered. Those who would act upon their bigoted thoughts and violate the Act must be put on notice that they will pay dearly for their discriminatory conduct. The stark and ugly truth we see in this case is that although Respondent freely allowed Ms. MacMahon to have her dog live with her in his trailer park, he reacted violently when she allowed a Black person to live there. His conduct is a relic of a hurtful and hateful past and must be condemned in the strongest way possible.

Considering all the above factors, I conclude that the maximum civil penalty is warranted in this case, and it will be awarded.

Injunctive Relief

Once a violation of the Act has been established, the administrative law judge may order injunctive or other equitable relief to make the complainant whole and to protect the public interest in fair housing. 42 U.S.C. § 3623(g)(3). "Injunctive relief should be structured to achieve the twin goals of insuring that the Act is not violated in the future and removing any lingering effects of past discrimination." *Blackwell II, supra*, 908 F. 2d at 874 (quoting *Marable v. Walker*, 704 F. 2d at 1219, 1221 (11th Cir. 1983)). Injunctive relief is used to eliminate the effects of past discrimination, prevent future discrimination, and position the aggrieved person as closely as possible to the situation he or she would have been in but for the discrimination. *HUD v. Dutra*, 2A Fair Housing-Fair Lending Rptr. (Aspen) ¶ 25,124, 26,064 (HUDALJ 1996).

The Charging Party seeks injunctive and other equitable relief in light of the violation. I conclude that injunctive and other relief is necessary to ensure that Respondents do not in the future engage in discriminatory conduct with regard to rental housing. The appropriate relief for this case is provided in the Order below.

CONCLUSION AND ORDER

The preponderance of the evidence demonstrates that Respondent discriminated against Complainants Angela MacMahon and Dennis Sessions on the basis of race in violation of 42 U.S.C. §3604(a) and 3604(b). It also establishes that as a result of Respondents' unlawful action, the Complainants have suffered injuries which must be remedied by an award of compensatory damages. In addition, to protect and vindicate the public interest, injunctive relief is necessary and a civil penalty must be imposed against Respondents. Accordingly, it is hereby ORDERED that:

1. Respondent is enjoined and prohibited from taking any action of reprisal, retaliation or harassment against either Ms. MacMahon or Mr. Sessions or any other person who testified or otherwise participated in the trial of this case;
2. Respondent is permanently enjoined from discriminating against any person on the basis of race in connection with any transaction involving the mobile home park at issue in this case or any other residential facility that Respondent may own or manage in the future;
3. Respondent shall display the HUD Fair Housing logo in all advertising, on all "For Rent" signs and other documents given or displayed to the public or to his mobile park residents, and to the public or residents at any other residential facility that Respondent may own or manage in the future;

4. Respondent shall prominently display a HUD-approved Fair Housing poster in his mobile park's office(s), and in any other residential facility that Respondent may own or manage in the future;

5. Within forty-five (45) days of the date this Order becomes final, or as soon thereafter as HUD and Respondent can arrange, Respondent and his managerial agents and employees shall attend fair housing training approved in advance by HUD. The training shall focus on the issue of race;

6. Respondent shall create and maintain a log of all rental applicants for all residential properties which he may own or manage for a period of three years. Said log shall include the full name and mailing address of the applicant, the date of the application, and the final disposition of each application. Respondent shall submit this log to HUD every four months over the three-year period;

7. Within thirty (30) days of the date this Order becomes final, Respondent shall pay damages in the amount of \$60,000 to Complainant Angela MacMahon;

8. Within thirty (30) days of the date this Order becomes final, Respondent shall pay damages in the amount of \$20,000 to Complainant Dennis Sessions; and

9. Within thirty (30) days of the date this Order becomes final, Respondent shall pay out-of-pocket damages in the amount of \$1,709.92 to Complainant Angela MacMahon;

10. Within thirty (30) days of the date this Order becomes final, Respondent shall pay a civil penalty in the amount of \$11,000 to the Secretary of HUD.

This Order is entered pursuant to 42 U. S. C. §3612(g)(3) and 24 C.F.R. §180.680, and it will become final upon the expiration of 30 days or the affirmance in whole, or in part, by the Secretary of HUD within that time.

CONSTANCE T. O'BRYANT
Administrative Law Judge

So **ORDERED** this 14th day of August, 2002.