

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

Secretary, United States Department of )  
Housing and Urban Development, on behalf of )  
**Redacted Name**, )  
Charging Party, )  
v. )  
Kay Allen Stevens, )  
Respondent. )  
\_\_\_\_\_ )

OHA No. \_\_\_\_\_

FHEO No. 04-20-0774-8

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

**Redacted Name** (“Complainant **Redacted Name**”) timely filed a complaint with the U.S. Department of Housing and Urban Development (the “Department” or “HUD”) on or about February 24, 2020, alleging that Kay Allen Stevens (“Respondent Stevens”) made housing unavailable, imposed different terms and conditions, and made or published discriminatory statements based on disability<sup>1</sup>, in violation of the Fair Housing Act (“the Act”), 42 U.S.C. §§ 3601-3619. On May 8, 2020, the complaint was amended to identify the proper Respondent.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated to the General Counsel, who has re-delegated to the Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause by the Assistant Secretary of Fair Housing and Equal Opportunity or his or her designee, i.e., the Regional Director of the Office of Fair Housing and Equal Opportunity for Region IV. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

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

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<sup>1</sup> The Fair Housing Act uses the term handicap. This Charge will use the word disability, which has the same legal meaning.

## II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations made in the aforementioned complaint and the Determination of Reasonable Cause, Respondent **Redacted Name** Stevens is charged with violating the Act as follows:

### A. LEGAL AUTHORITY

1. It is unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement in connection with the sale or rental of a dwelling that indicates a preference, limitation, or discrimination because of a disability. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a), (c)(1) and (c)(2).
2. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of disability. 42 U.S.C. § 3604(f)(1); 24 C.F.R. § 100.202(a); 24 C.F.R. § 100.204(a); 24 C.F.R. § 100.50(b)(1).
3. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b); 24 C.F.R. § 100.50(b)(2).
4. Unlawful discrimination under subsections 804(f)(1) and 804(f)(2) of the Act includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoyment of a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
5. The Act defines "disability" as "a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such impairment, or being regarded as having such an impairment. 42 U.S.C. § 3602(h)(1); 24 C.F.R. § 100.201.
6. The Act defines an "aggrieved person" as any person, corporation, or organization who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i)(1); 24 C.F.R. § 100.20(a).
7. The Act defines "dwelling" as any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20(b); 24 C.F.R. § 100.201.

### B. PARTIES AND SUBJECT PROPERTY

8. Complainant **Redacted Name** is an individual with a disability as defined by the Act. 42 U.S.C. §3602(h); 24 C.F.R. § 100.201.

9. Complainant [Redacted Name] has been injured by the alleged discriminatory acts and is an “aggrieved person” as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
10. The Subject Property is a sixteen (16) unit multifamily apartment community located at 738 Mars Hill Road, Florence, Lauderdale County, AL 35630. The Subject Property consists of dwellings, as defined by the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20(b).
11. Respondent Stevens has owned the Subject Property since 2010 after acquiring it from her current employer, Damon Smith & Associates LLC. Respondent Stevens handled rental inquiries she received and those referred to her by her agent. Tenants' rent payments via credit card were handled through her employer’s office.
12. At all times pertinent to this Charge, Respondent Stevens posted electronic rental advertisements at various websites with the assistance of a coworker.
13. At all times pertinent to this Charge, Respondent Stevens owned and managed the Subject Property.

### C. FACTUAL ALLEGATIONS

14. Complainant [Redacted Name] suffers from a disability that substantially limits her ability to manage anxiety and stress daily. Complainant [Redacted Name] sought medical treatment for her disability on or about October 16, 2019.
15. On November 21, 2019, Complainant [Redacted Name] obtained a letter from her medical provider supporting her need for an emotional support animal (“ESA”).<sup>2</sup>
16. On November 22, 2019, a written rental advertisement of the Subject Property (the “Ad”) was electronically posted to the “Shoals Sale Barns” Facebook Marketplace Group (“Facebook Marketplace”). The Facebook Marketplace Ad stated that “no pets were allowed.”
17. At the time Complainant [Redacted Name] saw the Facebook Marketplace Ad, she was living in Georgia with family and was interested in finding a unit for rent.
18. On or about February 13, 2020 (“February 13<sup>th</sup>”), at approximately 2:10 p.m., Complainant [Redacted Name] along with her boyfriend, [Redacted Name], drove to the Subject Property after seeing the Facebook Marketplace Ad.

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<sup>2</sup> Emotional support animals are not pets. They are animals that provide emotional and therapeutic support for individuals with disabilities. A housing provider may exclude or charge an additional fee for pets in its discretion subject to local law but may not for emotional support animals. *Assessing A Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act*, HUD FHEO Notice 2020-01.

19. Upon arriving at entrance to the Subject Property, the couple saw a telephone number, [Redacted Name], displayed on a white “For Rent” sign affixed below a yellow “Slow Down” sign that was also posted on the same wooden post at or near the Subject Property’s mail center.
20. Mr. [Redacted Name] dialed [Redacted Name] on his mobile phone and after a woman answered put the call on speakerphone so they both could hear the call.
21. During the February 13<sup>th</sup> phone call, Complainant [Redacted Name] asked Respondent Stevens about touring a unit at the Subject Property.
22. Respondent Stevens asked Complainant [Redacted Name] if she had any animals and Complainant [Redacted Name] replied “yes.”
23. Respondent Stevens replied, “no that’s not going to work out.” Complainant [Redacted Name] responded by telling Respondent Stevens that her animal was an ESA and that she had proper documentation.
24. Respondent Stevens told Complainant [Redacted Name] that she did not allow pets or animals and she could not help them.
25. Complainant [Redacted Name] responded and told Respondent Stevens that denying an ESA due to a no pet policy was illegal. Respondent Stevens stated her no pets and animals policy again before terminating the call.
26. The same day she spoke to Respondent Stevens, Complainant [Redacted Name] used her mobile phone to file an online fair housing complaint with HUD.
27. On or about February 14, 2020 (“February 14<sup>th</sup>”), the day after Complainant [Redacted Name] and Mr. [Redacted Name] visited the Subject Property and he called [Redacted Name], Mr. [Redacted Name] received a call from that number on his mobile phone. He missed that call and there was no voicemail message from the caller.
28. On or about February 15, 2020, the day after Mr. [Redacted Name] missed the February 14<sup>th</sup> call from [Redacted Name], he tried to return the call. After Mr. [Redacted Name] dialed [Redacted Name], no one answered. Mr. [Redacted Name] left a brief voicemail message. After there was no response to Mr. [Redacted Name] call, he and Complainant [Redacted Name] made no further attempts to contact Respondent Stevens.
29. On February 24, 2020, Complainant [Redacted Name] formally filed a written Fair Housing complaint with HUD.
30. On March 17, 2020, during HUD's investigation of the HUD complaint, Respondent Stevens provided HUD with a copy of her rental agreement.

31. Respondent Stevens' rental agreement lists her as the landlord and provides the address of the law firm she works at. The rental agreement provides that tenants "shall not keep domestic or any animals on or about the premise without PRIOR WRITTEN CONSENT from the Landlord." The rental agreement has a provision for pets but there is no Reasonable Accommodation policy provided or referenced in it.
32. During HUD's investigation, Respondent Stevens stated that she no longer allowed animals in her units because of damage caused by the pet of a previous tenant.
33. During HUD's investigation, Respondent Stevens admitted that she had previously rented a dwelling unit at the Subject Property to a tenant who requested a reasonable accommodation for an ESA.
34. Respondent Stevens stated, that in response to her former tenant's request for an ESA, she told the previous tenant she would "think about it."
35. During HUD's investigation, Respondent Stevens identified [Redacted Name], as the former tenant who requested an ESA in October 2018, during her tenancy at the Subject Property.
36. During HUD's investigation, the former tenant told HUD that she asked Respondent Stevens for an ESA as a reasonable accommodation and told Respondent Stevens that she would obtain documentation from her physician establishing her need for a service animal.
37. The former tenant stated that she recalled the tone of their discussion and the questions asked by Respondent Stevens made her "feel uncomfortable" and "discouraged her from moving further with her reasonable accommodation request."
38. The former tenant confirmed that she was aware that Respondent Stevens was very adamant about not allowing animals in her units.
39. The former tenant terminated her lease at the Subject Property in December 2018 because she did not believe Respondent Stevens was going to accommodate her request for an ESA.
40. As a result of Respondent Stevens' discriminatory conduct, Complainant [Redacted Name] suffered actual damages, including but not limited to out-of-pocket costs, emotional distress, and loss of a housing opportunity.

#### **D. FAIR HOUSING ACT VIOLATIONS**

41. Respondent Stevens violated Section 804(c) of the Act by stating that no animals are allowed at the Subject Property after Complainant [Redacted Name] inquired about renting a unit there, told her that she had an ESA, and that she could provide documentation to support her need for an accommodation, thereby discriminating against Complainant

**Redacted Name** on the basis of disability. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(c)(1) and (c)(2).

42. Respondent Stevens violated Sections 804(f)(1) and 804(f)(3)(B) of the Act, by refusing to engage in discourse with Complainant **Redacted Name** about her ESA and the medical documentation she offered to support her need for a reasonable accommodation and summarily refusing to allow any animals, thereby refusing to negotiate and making housing unavailable on the basis of disability. 42 U.S.C. §§ 3604(f)(1) and 3604(f)(3)(B); 24 C.F.R. § 100.50(b)(1); 24 C.F.R. §§ 100.202(a) and 100.204(a).
43. Respondent Stevens violated Sections 804(f)(2) and 804(f)(3)(B) of the Act, after Complainant **Redacted Name** inquired about renting a unit, when she stated “no animals” were allowed, thereby limiting Complainant’s ability to rent, use and enjoy the Subject Property on the basis of disability. 42 U.S.C. § 3604(f)(2)(A) and (C); 24 C.F.R. §§ 100.50(b)(2), 100.65(a) and (b)(7); 24 C.F.R. §§ 100.202(b)(1) and (b)(3).

### 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), hereby charges Respondent Kay Allen Stevens with engaging in discriminatory housing practices in violation of the Act, and requests that an order be issued that:

1. Declares that the discriminatory housing practices of Respondent Stevens, as set forth above, violate the Act, as amended, 42 U.S.C. §§ 3601, *et seq.*, and its implementing regulations;
2. Enjoins Respondent Stevens, her agents, employees, and successors, and all other persons in active concert or participation with them from discriminating against any person based on disability;
3. Awards such monetary damages as will fully compensate Complainant **Redacted Name** for the injuries caused by Respondent Stevens’ discriminatory conduct;
4. Assesses a civil penalty against Respondent Stevens for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671;
5. Mandates Respondent Stevens, her agents, employees, successors, and all other persons in active concert or participation with them, attend training that addresses the Act’s prohibitions against disability; and
6. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3).

Respectfully submitted,

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Date: April \_\_\_\_, 2021