

**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 Lucia Scala,  
  
Charging Party,  
  
v.  
  
James Kahn, Marilou Keen, and  
Vero Beach Kamp, Inc.,  
  
Respondents.  
\_\_\_\_\_

HUDALJ 11-F-087-FH-46  
HUDALJ 11-F-088-FH-47  
~~November 25, 2011~~

December 13, 2011 AR

**INITIAL DECISION AND CONSENT ORDER**

**I. BACKGROUND**

On or about July 30, 2008 and September 29, 2008, Complainant Lucia Scala filed verified complaints with the U.S. Department of Housing and Urban Development (HUD or the Department), alleging that Vero Beach Kamp, Inc., James Kahn, and/or Marilou Keen (Respondents) violated the Fair Housing Act, 42 U.S.C. §§ 3601-3618 (the Act or Fair Housing Act) by denying Complainant's reasonable accommodation request and/or engaging in harassment, interference, coercion and/or intimidation because of disability in violation of 42 U.S.C. §§ 3604 (f)(3)(B) and 3617 of the Fair Housing Act, as amended in 1988, 42 U.S.C. § 3601 *et seq.* ("the Act"), in connection with the rental of a dwelling.

Complainant has a mental impairment that substantially impacts her ability to interact with others. She resided at Vero Beach Kamp, the subject property, from October 2005 until December 2008. Vero Beach Kamp is located at 8850 U.S. Highway 1 in Sebastian, Florida.

Respondent Vero Beach Kamp, Inc. owned and operated the subject property. Respondent Marilou Keen was authorized to and did act as an employee and/or agent of Respondent Vero Beach Kamp, Inc. She was the Vice President of Respondent Vero Beach Kamp, Inc. in 2008. In or around April 2009, Respondent Marilou Keen was removed as Vice President of Respondent Vero Beach Kamp, Inc. and replaced with Respondent James Kahn as Vice President and Secretary. Respondent Marilou Keen is the sister of Respondent James Kahn. Michael Kahn, Respondent James Kahn's brother, was named as the President.

Respondent James Kahn was authorized to and did act as an employee and/or agent of Respondent Marilou Keen and Respondent Vero Beach Kamp, Inc. He was the park manager at the subject property.

The Charges of Discrimination, both dated September 30, 2011, alleged Respondents violated Sections 3604(f)(3)(B) and 3617 of the Act by denying Complainant's request to continue use of a clothesline at her RV unit and by raising lot rents and other actions amounting to intimidation, coercion and harassment.

Respondents deny they violated the Act as alleged in the Charge, but agree to settle the claims in the underlying action in order to avoid additional cost and expense by entering into this Consent Order. The entry of this Initial Decision and Consent Order (Consent Order) shall not be deemed as an admission of fault or liability by Respondents nor constitute a decision or finding that Respondents have engaged in any discriminatory housing practices.

## **II. GENERAL PROVISIONS**

1. By signing this Consent Order, the parties agree that the Charging Party shall file a motion, on behalf of all the parties to this Consent Order, with HUD's Office of Administrative Law Judges requesting its approval and issuance pursuant to 24 C.F.R. § 180.450.
2. The parties acknowledge that this Consent Order is a voluntary and full resolution of the Charge. The parties acknowledge that the terms set forth herein are contractual and not merely a recital of the parties' intentions. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to it.
3. The term of this Consent Order shall be three (3) years from its effective date.
4. The parties agree that in the interest of a prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages, with the original executed Signature Pages to be attached to the body of the Consent Order to constitute one document.
5. The signatures of the parties to this Consent Order may be executed by way of facsimile transmission 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 provided that the original signature pages are forwarded to the Regional Counsel for the U.S. Department of Housing and Urban Development, Office of Counsel, Region IV, 40 Marietta Street, 3<sup>rd</sup> Floor, Atlanta, GA 30303, immediately upon its signing. Both the original and faxed signatures will be retained in the official case file.
6. This Consent Order is binding upon Respondents, their employees, heirs, successors, agents, assigns and all others in active concert with them in the ownership and operation of the Subject Property. This Consent Order is full settlement of all claims by Lucia Scala in any way related to the allegations set forth in the Charges of Discrimination.

7. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other complaints involving Respondents, made pursuant to the Act, or any other statute within HUD's jurisdiction.

### **III. MUTUAL RELEASE**

8. In consideration of the execution of this Consent Order, and other good and valuable consideration, Lucia Scala, hereby forever waives, releases, and covenants not to sue Respondents, their successors, assigns, agents, employees and attorneys with regard to any and all claims, including attorneys fees, causes of action, demands, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Complaints 04-08-1418-8 and 04-08-1781-8 (HUDALJ 11-F-087-FH-46/HUDALJ 11-F-088-FH-47).
9. In consideration of the execution of this Consent Order, Respondents hereby forever waive, release, and covenant not to sue HUD, its successors, assigns, agents, employees and attorneys, and Respondents, their successors, assigns, agents, employees and attorneys, with regard to any and all claims, including attorneys fees, causes of action, demands, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Complaints 04-08-1418-8 and 04-08-1781-8 (HUDALJ 11-F-087-FH-46/HUDALJ 11-F-088-FH-47) or which could have been filed in any action or suit arising from said subject matter.

### **IV. DAMAGES FOR COMPLAINANT**

10. Respondents shall pay the amount of \$10,000 (TEN THOUSAND DOLLARS AND 00/100) to Lucia Scala in the form of a certified check. The payment shall be mailed directly to Lucia Scala at the following address within fourteen (14) days of the effective date of this Consent Order:

2179 Pineapple Avenue, Apt. 3  
Melbourne, FL 32935

11. Respondents agree to waive a debt that Lucia Scala may owe Respondents in the amount of approximately \$2,400 (TWO THOUSAND FOUR HUNDRED DOLLARS AND 00/100). Within fourteen (14) days of the effective date of this Consent Order, Respondents shall mail Lucia Scala a letter stating that this Consent Order satisfies all debts that Lucia Scala may owe to Respondents. The letter shall be mailed to Lucia Scala at the address listed in Paragraph 10.
12. Respondents agree to forward a copy of the check referenced in Paragraph 10 and a copy of the letter referenced in Paragraph 11 within fourteen (14) days of the effective date of this Consent Order, to the Regional Counsel, U.S. Department of Housing and Urban Development, Office of Counsel, Region IV, 40 Marietta Street, 3<sup>rd</sup> Floor, Atlanta, GA 30303.

## **V. RELIEF IN THE PUBLIC INTEREST**

13. **Prohibition against Discrimination:** Respondents and their agents, employees and all persons in active concert with them in the ownership and operation of the Subject Property shall not discriminate against any person on the basis of race, color, religion, national origin, sex, disability or familial status in any aspect of the rental and/or sale of a dwelling in violation of the Act.
14. **Fair Housing Training:** Within ninety (90) calendar days of the effective date of this Consent Order, Respondents and all employees who speak with the general public and/or residents, make tenancy decisions or otherwise make decisions that affect residents at the subject property shall attend **four (4) hours** of Fair Housing training pertaining to their obligations under the Act and applicable state and local non-discrimination laws. The Fair Housing training will be conducted by HUD's Office of Fair Housing and Equal Opportunity (FHEO) or by a contractor approved in advance by HUD at a location in or around Sebastian, FL. A written approval to schedule the training session must be solicited and obtained from the FHEO Region IV Director (address below in Paragraph 19) at least thirty (30) calendar days prior to the commencement of the training.
15. **Fair Housing Posters:** Within thirty (30) calendar days of the effective date of this Consent Order, Respondents shall display a HUD Fair Housing poster, to be supplied by FHEO, in a conspicuous location in the management office at the Subject Property. The poster shall be displayed throughout the term of this Consent Order.

## **VI. CIVIL PENALTY**

16. In consideration of the provisions made in the public interest, HUD shall waive and release all civil penalties arising out of the subject matter of HUD Case Numbers 04-08-1418-8 and 04-08-1781-8 (HUDALJ11-F-087-FH-46/HUDALJ11-F-088-FH-47) subject to their compliance with said provisions.

## **VII. REPORTING AND RECORDKEEPING**

17. Within thirty (30) calendar days of the effective date of this Consent Order, Respondents shall submit a signed affidavit under penalty of perjury to the FHEO Region IV Director that they have complied with Paragraph 15 of this Consent Order by displaying a Fair Housing poster in the management office at the Subject Property.
18. Within thirty (30) calendar days of the completion of the fair housing training referenced in Paragraph 14 of this Consent Order, Respondents shall submit a signed affidavit under penalty of perjury to the FHEO Region IV Director that they have complied with Paragraph 14 of this Consent Order by completing the fair housing training.
19. All required notifications, certifications, and documentation of compliance must be submitted to:

Carlos Osegueda



FHEO Region IV Director  
Office of Fair Housing and Equal Opportunity  
40 Marietta Street, 16<sup>th</sup> Floor  
Atlanta, GA 30303

20. The Department shall determine compliance with the terms of this Consent Order. During the term of this Consent Order, HUD may review compliance with this Consent Order. As part of such review, HUD may inspect the Subject Property, examine witnesses and copy pertinent records with 24 hours notice given.
21. Respondents shall provide their full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Consent Order.
22. Upon a breach of any provision of this Consent Order, HUD may refer the matter to the United States Department of Justice, which may petition the appropriate United States Court of Appeals for the enforcement of this Consent Order and for appropriate relief in accordance with 42 U.S.C. § 3612(j).

#### **VIII. ADMINISTRATION**

23. This Consent Order memorializes and constitutes the entire agreement and understanding between the parties and supersedes and replaces all prior negotiations, proposed agreements and agreements between the parties, whether written or unwritten. The parties acknowledge that no person or entity, agent or attorney of any person or entity, has made any promises, representations, or warranties whatsoever, express or implied, which are not expressly contained in this Consent Order, and the parties further acknowledge that they have not executed this Consent Order in reliance upon any collateral promise, representation, warranty, or in reliance upon any belief as to any fact or matter not expressly recited in this Consent Order.
24. This Consent Order is entered pursuant to 42 U.S.C. § 3612 and 24 C.F.R. § 180.450. This Consent Order shall become final upon the earlier of the expiration of thirty (30) calendar days from the date of its issuance or affirmance by the Secretary. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.680(b)(2).
25. The signatures of the parties to the 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 Order at any time

#### **IX. AGREEMENT OF THE PARTIES**

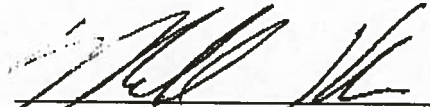
26. All parties have read this Consent Order and willingly sign it below with a full understanding of the rights it confers and responsibilities it imposes on them.

**Complainant:**

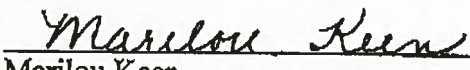
*Lucia Scala*  
\_\_\_\_\_  
Lucia Scala

*11/22/2011*  
\_\_\_\_\_  
Date

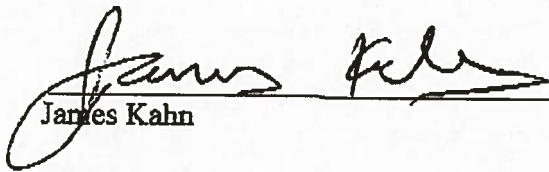
**Respondents:**

  
\_\_\_\_\_  
Michael Kahn, President  
Vero Beach Kamp, Inc.

11/23/11  
Date

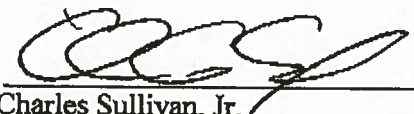
  
\_\_\_\_\_  
Marilou Keen

11/23/11  
Date

  
\_\_\_\_\_  
James Kahn

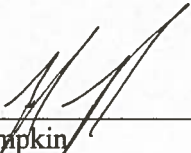
11/23/11  
Date

**Respondents' Representative:**


  
\_\_\_\_\_  
Charles Sullivan, Jr.

11/23/11  
Date

For the Secretary, United States Department of Housing and Urban Development:

  
\_\_\_\_\_  
Sylloris Lampkin  
Attorney-Advisor

11/25/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Donnie Murray  
Regional Counsel, Region IV

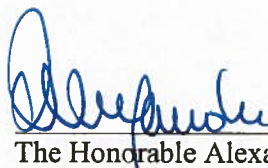
11/25/11  
\_\_\_\_\_  
Date



**VI. ORDER OF THE COURT**

The hearing in this matter has been scheduled for February 27, 2012. On November 25, 2011, the Charging Party, Respondents forwarded to the Court the foregoing Consent Order, incorporating the terms of their settlement agreement. The foregoing agreement is signed and appears to be in the public interest. The agreement (as incorporated in the foregoing Consent Order) is accepted and scheduling of the hearing is cancelled.

So Ordered, this 13<sup>th</sup> December day of ~~November~~ 2011.



The Honorable Alexander Fernández  
Administrative Law Judge