

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, Charging Party, on behalf
of:

FREDDIE D. SANDERS, WALTER L. SANDERS, JR. and
TWO MINOR CHILDREN,

v.

BARBARA C. VANCE,

Respondent.

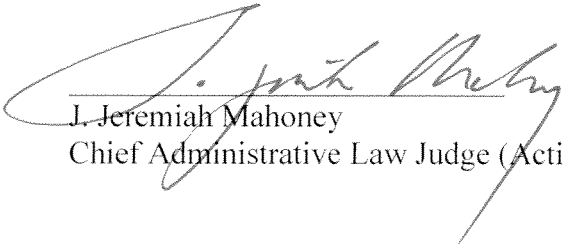
HUDALJ 11-M-062-FH/23

January 12, 2012

APPROVAL OF INITIAL DECISION AND CONSENT ORDER

By Motion dated January 10, 2012, counsel for the Charging Party, on behalf of the parties, moves for issuance of a proposed INITIAL DECISION AND CONSENT ORDER (attached), which bears signatures of the parties or persons with authority to execute on behalf of the parties and, by its terms, settles the issues in the above-captioned case. The proposed order, incorporating the parties' settlement agreement, appears to be in the public interest.

Accordingly, the postponed hearing in this matter is cancelled and the proposed INITIAL DECISION AND CONSENT ORDER is approved. It is issued this date by signature of the presiding Administrative Law Judge.


J. Jeremiah Mahoney

Chief Administrative Law Judge (Acting)

Attachment: a/s

**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)	
Freddie D. Sanders, Walter L. Sanders, Jr., and)	
two minor children,)	
)	
Charging Party,)	
)	HUDALJ 11-M-062FH23
v.)	FHEO Case No. 04-06-0898-8
)	
Barbara C. Vance,)	January 12, 2012
)	
Respondent.)	
_____)	

INITIAL DECISION AND CONSENT ORDER

I. FACTUAL AND PROCEDURAL BACKGROUND

On June 9, 2006, Complainant Freddie D. Sanders timely filed a verified complaint with the United States Department of Housing and Urban Development (“HUD” or “Charging Party”) alleging that Respondent Barbara C. Vance refused to negotiate or otherwise made a dwelling unavailable, steered African-American (Black) potential buyers from purchasing dwellings in a predominately White neighborhood, subjected her to discriminatory terms, conditions and privileges associated with the sale of a dwelling, made discriminatory statements, and falsely denied or represented the availability of a dwelling because of race and/or color in violation of subsections 804(a), (b), (c), and (d) of the Fair Housing Act, as amended (“Act”), 42 U.S.C. § 3604(a), (b), (c), and (d). The complaint was later amended to add Walter L. Sanders as a Complainant and the Complainants’ two minor children as aggrieved persons.

HUD determined that there was reasonable cause to believe that discriminatory housing practices had occurred in this case based on race and/or color, in violation of subsections 3604(a), (b), (c), and (d) of the Act. On August 30, 2011, the Charging Party issued a Charge of Discrimination (“Charge”) pursuant to a Determination of Reasonable Cause that the Act had been violated. 42 U.S.C. § 3610(g)(1)-(2).

Respondent denies that she violated the Act as alleged in the Charge, but agrees to settle the claims in the underlying action in order to avoid the additional cost and expense by entering

II. GENERAL PROVISIONS

1. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to it.
2. 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.
3. 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 of this Consent Order, with the original executed Signature Pages to be attached to the body of the Consent Order to constitute one document.
4. The signature of the parties to this Consent Order may be executed by way of facsimile or electronic 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.
5. The parties agree the Charging Party will file a Motion for Issuance of Initial Decision and Consent Order, and the Initial Decision and Consent Order, after it is executed by all of the appropriate parties.
6. The parties acknowledge this 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. 24 C.F.R. § 180.680(b)(2) (2011).
7. This Consent Order is binding upon Respondent Barbara C. Vance, her employees, successors, agents, assigns and all others in active concert with her in the sale, rental, or management of dwellings. This Consent Order is full settlement of all claims asserted by the Charging Party and Complainants, in any way related to the allegations set forth in the subject Charge of Discrimination.
8. This Consent Order does not in any way limit or restricts HUD's authority to investigate any other complaints involving Respondent made pursuant to the Act, or any other complaints within HUD's jurisdiction.
9. Respondent's decision to agree to settle the claims in the underlying action is made in contemplation of the expenses associated with litigating this action through hearing and the uncertainty connected with litigation, and it is not to be interpreted as an admission of fault or liability under the Act.

III. INVESTIGATIVE FINDINGS

10. Complainants Freddie D. Sanders and Walter J. Sanders and their two minor children are African-American (Black) persons and reside in Batesville, Mississippi.
11. Respondent Barbara C. Vance is a White person. At all times relevant to this Charge, Respondent was a licensed real estate broker and listed homes for sale in Sardis, Mississippi.
12. At all times relevant to the Charge, Respondent was employed by the owners of two dwellings, located at 339 Ruffin Drive, Sardis, Mississippi ("Subject Property # 1") and 344 Ruffin Drive, Sardis, Mississippi ("Subject Property # 2"), to list the properties for sale and show them to prospective buyers.
13. The subject properties are located in a neighborhood of ten (10) houses on or adjacent to Ruffin Drive in Sardis, Mississippi. At all times relevant to this Charge, the subject properties were located in a predominantly White neighborhood. Only one out of the ten (10) homes near the subject properties was occupied by an African-American (Black) family.
14. At all times relevant to the Charge, Complainants were actively searching for a home to purchase in Sardis, Mississippi. Complainants were preapproved for a mortgage of \$147,000 and employed a realtor, Andrea Leland ("Realtor Leland"), who is an African-American (Black) person, to assist in the search.
15. On or about July 5, 2005, Complainants viewed a "for sale" sign at Subject Property # 1 and Complainant Walter L. Sanders called the telephone number listed on the sign. Respondent answered the call. Complainant Walter L. Sanders inquired about the availability of Subject Property # 1 and requested an opportunity to view it. Complainants and Respondent set an appointment to view Subject Property # 1 at 6:00 p.m. on July 6, 2005.
16. On or about July 6, 2005, Complainants, their children, Realtor Leland, and Realtor Leland's family arrived at Subject Property # 1 at approximately 5:59 p.m. Respondent failed to show for the appointment.
17. On or about July 6, 2005 at approximately 9:00 p.m., Complainant Freddie D. Sanders called Respondent and set a second appointment to view Subject Property # 1 for July 10, 2005 at 4:00 p.m.
18. On or about July 10, 2005 at approximately 3:00 p.m., Respondent called Complainants and stated that she was unable to attend the appointment because she was out of town. Respondent advised that she would reschedule the appointment when she returned. Respondent did not call Complainants to reschedule the second appointment.

19. On or about July 27, 2005, Complainant Freddie D. Sanders went to the North Delta Mississippi Enterprise Community Fair Housing Clinic ("North Delta Clinic") and discussed her inability to view Subject Property # 1. While at North Delta Clinic, Complainant Freddie D. Sanders called Respondent to set another appointment to view Subject Property # 1, however Respondent did not answer the call.
20. On or about July 27, 2005 at approximately 8:40 p.m., Respondent called Complainants and advised that she was available to show Subject Property # 1 at 9:00 p.m. that evening. Complainants declined the invitation and advised that it was too dark to properly view the dwelling. Complainants and Respondent set a third appointment to meet at Subject Property # 1 on Thursday, July 28, 2005 at 6:00 p.m.
21. On or about July 28, 2005 at approximately 5:45 p.m., Complainants, their two children, and Realtor Leland arrived at Subject Property # 1. Respondent failed to show for the appointment. Later that evening, Respondent called Complainants and stated that she left work later than anticipated and was unable to make the third appointment. Respondent advised that the owners of Subject Property # 1 had decided not to sell the property and it was unavailable for purchase.
22. On or about August 11, 2005, Joan and James Melton ("Meltons"), a White couple, contacted Respondent and viewed Subject Property # 1. On or about September 25, 2005, the Meltons entered into a contract to purchase Subject Property # 1 for \$123,000. The closing for Subject Property # 1 occurred on October 28, 2005.
23. In December of 2005, North Delta Clinic conducted two tests of Respondent's real estate practices at Subject Property # 2. On December 19, 2005, a White tester ("White Tester") met Respondent at Subject Property # 2 to view the dwelling. Near the end of the tour of the dwelling, Respondent made the following comment to the White Tester:

"I'd really like for you to be able to get this house. I have to show this house to a Black lady at 5:00 p.m. The neighbors are prejudice and they wouldn't want a Black living here. If she puts a contract on the house then I have to do it. I don't think the neighbors would appreciate it. This is a nice neighborhood in a small town."
24. On December 20, 2005, Respondent met an African American (Black) Tester ("Black Tester") at Subject Property # 2. Respondent asked the Black Tester if she had been pre-qualified for financing. The Black Tester stated that she did not have financing yet, but that she could obtain it. Respondent told the Black Tester to make contact again after she had obtained financing and that Respondent would assist her.
25. Complainants purchased a home in Batesville, Mississippi for \$142,746 on July 19, 2006.

IV. ACTIONS IN THE PUBLIC INTEREST

26. Application and Requirements of the Fair Housing Act: The Fair Housing Act is a federal anti-discrimination statute intended to eliminate discrimination in housing across the United States of America. 42 U.S.C. §§ 3601-19. Respondent must abide by all the requirements of the Fair Housing Act. Respondent specifically agrees to be permanently enjoined from discriminating against any person on the basis of race, color, religion, national origin, sex, disability, or familial status with regard to the sale, rental, or management of any dwelling.
27. Mandatory Training, Record Keeping and Reporting Requirements: Respondent affirms that she is currently not engaged in the sale, rental, or management of any dwelling. If, dwelling during the effective period of this Consent Order, Respondent agrees to represent the owner, seller, buyer, or prospective tenant for the purchase, rental or management of a dwelling, Respondent agrees to comply with the following provisions:
- a. Within ninety (90) calendar days, Respondent agrees to attend fair housing education training about the Fair Housing Act and any applicable state and local non-discrimination laws. The fair housing education training may be conducted by HUD's Office of Fair Housing and Equal Opportunity. Respondent may contact Valecia L. Bello, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 40 Marietta Street Atlanta, Georgia 30303-2806, (678) 732-2496 to schedule the date, time, and location of the fair housing training. If Respondent chooses to attend fair housing education training not conducted by HUD, Respondent agrees to provide a certification of compliance with this provision to Valecia L. Bello, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 40 Marietta Street Atlanta, Georgia 30303-2806;
 - b. Within thirty (30) calendar days, Respondent agrees to inform any and all of her agents and/or employees of the terms of this Agreement and shall provide each such person with a copy of this Agreement. Respondent agrees to provide a certification of compliance with this provision to Valecia L. Bello, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 40 Marietta Street Atlanta, Georgia 30303-2806;
 - c. Within thirty (30) calendar days, Respondent agrees to submit the policies and procedures that she will utilize to conduct her real estate business in a non-discriminatory manner and in compliance with the Fair Housing Act. The policies and procedures must clearly describe the manner in which appointments to show dwellings will be scheduled and confirmed, and the manner in which inquiries from prospective buyers and tenants will be processed. Respondent agrees to provide a copy of the policies and procedures to Valecia L. Bello, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 40 Marietta Street Atlanta, Georgia 30303-2806 for review and approval prior to implementation;

d. Within ninety (90) calendar days of the receipt of Respondent's policies and procedures, HUD agrees to notify Respondent of its approval or to suggest revisions to Respondent's policies and procedures. If revisions are required, Respondent agrees to submit the newly revised policies and procedures within thirty (30) days for HUD's approval. Once HUD has approved Respondent's policies and procedures, Respondent agrees to implement them immediately into the operation of her real-estate business;

e. Respondent agrees to maintain a log of all prospective buyers or tenants who inquire, whether in-person or by telephone, about any dwelling listed for sale, rent, or under Respondent's management. The log shall include the name, address and telephone number of each prospective buyer or tenant and the date of the in-person or telephone inquiry. In the event that a prospective buyer or tenant refuses to provide his or her name, address, or telephone number, Respondent shall record the date of the inquiry, record any information that was received, and note that the prospective buyer tenant refused to provide the remainder of the requested information. Respondent agrees to provide a copy of the log on a quarterly basis, beginning one hundred and twenty (120) days from the effective date of this provision, to Valecia L. Bello, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 40 Marietta Street Atlanta, Georgia 30303-2806.

28. Other Housing Discrimination Complaints: For a period of five (5) years from the effective date of this Consent Order, Respondent will notify HUD of any formal complaint filed against her with a local, state or federal agency regarding equal opportunity or discrimination in housing within ten (10) days of any such complaint. Respondent will provide a copy of the complaint with the notification to HUD. The notification will include the full details of the complaint, including the complainant's name, address, and telephone number. Respondent will also promptly provide HUD with all information it may request concerning any such complaint and its actual or attempted resolution.

V. SETTLEMENT OF CLAIMS WITH COMPLAINANTS AND AGGRIEVED PERSONS

29. Compensation for Complainants Freddie D. Sanders and Walter L. Sanders and Two Aggrieved Persons' Damages: Respondent agrees to pay, by certified or cashier's check, the amount of sixty five hundred dollars (\$6,500.00) to Freddie D. Sanders and Walter L. Sanders within ten (10) calendar days from the entry of this Consent Order. The check shall be made payable to Freddie D. Sanders and Walter L. Sanders and mailed by Federal Express, the United Parcel Service, or certified mail of the United States Postal Service to the following address:

Freddie and Walter Sanders
PO Box 1243
Batesville, MS 38606

VI. MUTUAL RELEASE

30. In consideration of the execution of this Consent Order, and other good and valuable consideration, the Charging Party and Complainants hereby forever waive, release, and covenant not to sue Respondent, her successors, assigns, agents, employees and attorneys with regard to any and all claims, damages, and injuries of whatever nature whether presently known or unknown, with respect to the Complaint arising out of the subject matter of HUD Case Number 04-06-0898-8.
31. In consideration of the execution of this Consent Order, Respondent hereby forever waives, releases, and covenants not to sue HUD, its successors, assigns, agents, employees and attorneys, and Freddie D. Sanders and Walter L. Sanders, their successors, assigns, agents, employees and attorneys, with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 04-06-0898-8 or which could have been filed in any action or suit arising from said subject matter.

VII. NON-RETALIATION

32. Respondent acknowledges that she has an affirmative duty not to discriminate under the Act, and that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Act. Respondent further acknowledges that any subsequent retaliation or discrimination constitutes both a material breach of this Consent Order, and a statutory violation of the Act.

VIII. REPORTING

33. All required notifications, certifications, and documentation of compliance must be submitted to:

Valecia L. Bello, Chief, Program Compliance Branch
U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
40 Marietta Street
Atlanta, Georgia 30303-2806

IX. COMPLIANCE

34. HUD shall determine compliance with the terms of this Consent Order.
35. During the term of this Consent Order, FHEO may review compliance with this Consent Order, subject to and in accordance with HUD regulations. As part of such review, FHEO may, upon providing advance notice of said inspection, inspect any dwellings

within Respondent's management, and copy Respondent's pertinent business records, and examine witnesses.

36. Respondent agrees to provide her full cooperation in any compliance review undertaken by HUD to ensure compliance with this Consent Order.
37. Upon a breach of any provision of this Consent Order, HUD may petition the United States Court of Appeals for the Fifth Circuit for the enforcement of the final decision and for appropriate temporary relief or a restraining order in accordance with 42 U.S.C. § 3612(j) (2011).

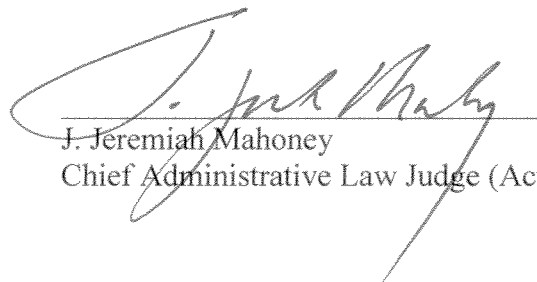
X. ADMINISTRATION

38. This Consent Order shall remain in effect for a period of five (5) years from its effective date.
39. For purposes of this Consent Order, the effective date of this Consent Order is the date that this Consent Order is signed by the HUD ALJ.
40. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) (2011) and 24 C.F.R. § 180.450 (2011). This Consent Order shall become final upon the expiration of thirty (30) calendar days from the date of its issuance or affirmance by the Secretary within that time. 42 U.S.C. § 3612(h) (2011); 24 C.F.R. § 180.680(b)(2) (2011).

XI. ORDER OF THE COURT

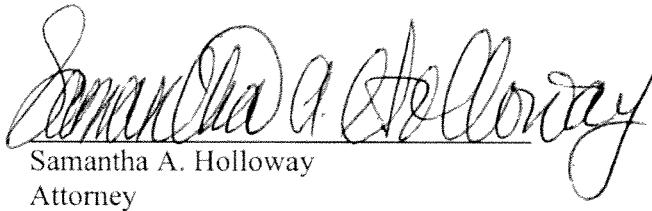
The hearing in this matter was originally scheduled to commence on December 13, 2011, but was later postponed. The Charging Party, Complainants and Respondent forwarded to the Court the foregoing Consent Order, received on January 10, 2012, incorporating the terms of their settlement agreement. The foregoing agreement appears to be in the public interest. All parties have signed and the agreement (as incorporated in the foregoing Consent Order) is accepted.

So Ordered,




J. Jeremiah Mahoney
Chief Administrative Law Judge (Acting)

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

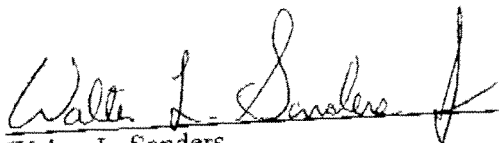

Samantha A. Holloway
Attorney

1/10/12
Date



James Blackmon
Acting Regional Counsel, Region IV

1/10/12
Date

For the Complainants and Aggrieved Persons:



Walter L. Sanders
Complainant

1-10-12
Date

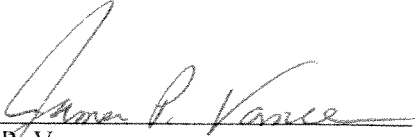

Freddie D. Sanders
Complainant

1-10-12
Date

For the Respondent:


Barbara C. Vance
Respondent

1-5-12
Date


James P. Vance
Attorney

1-5-12
Date