

**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 Complainants JoAnn Murphy and Taylor Murphy)	
)	
Charging Party)	<i>12/18/12 AF</i>
)	HUD ALJ 12-AF-060-FH-20
v.)	FHEO No. 01-12-0228-8
)	
Scott Walker & Premiere Real Estate, LLC)	
)	
Respondents)	
)	

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

This matter arose from a complaint of discrimination filed by Complainants JoAnn Murphy and Taylor Murphy ("Complainants") on April 26, 2012, with the United States Department of Housing and Urban Development ("Department" or "HUD") pursuant to the Fair Housing Act, 42 U.S.C. §§ 3601-3619 ("Fair Housing Act").

On September 12, 2012, the Department issued a Charge of Discrimination ("Charge") against Respondents Scott Walker and Premiere Real Estate, LLC ("Respondents") alleging violations of 42 U.S.C. §§ 3604(a) and (c), which prohibit the discriminatory refusal to rent on the basis of familial status and discriminatory statements on the basis of familial status.

The Complainants, Respondents, and the Department ("parties") have agreed to resolve this matter without the need for a hearing before a HUD Administrative Law Judge ("ALJ"). The parties have consented to the entry of this Initial Decision and Consent Order ("Consent Order") as indicated by their signatures below.

II. GENERAL PROVISIONS

A. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed complaint. It is understood that the execution of the Conciliation Agreement does not constitute an admission by the Respondents of any violation of the Fair Housing Act. No party has been coerced or in any way forced to become a party to it. The parties acknowledge that they

have read and fully understand the significance of the provisions of this Consent Order and their obligations as set forth below.

B. The parties agree that HUD shall file with the Office of Administrative Law Judges a Motion for Entry of an Initial Decision and Consent Order, along with this Initial Decision and Consent Order, after this document is executed by all parties.

C. This Consent Order is binding upon Respondents, their members, principals, owners, employees, successors, agents, assigns and all others in active concert with them in the operation of Premiere Real Estate, LLC. This Consent Order is a full settlement of all claims by Complainants that are in any way related to the allegations set forth in the Charge of Discrimination.

D. Pursuant to 24 C.F.R. § 180.680, this Consent Order is a public document.

III. RELIEF FOR COMPLAINANTS

A. Within thirty (30) days of the effective date of this Consent Order, Respondents shall pay to Complainants by certified or cashier's check the sum of three thousand dollars (\$3,000) in full settlement of Complainants' claims for damages arising out of the allegations presented in the Charge. Respondents shall make the check payable to "JoAnn Murphy" and send the check to:

JoAnn Murphy
120 Fisherville Road, Unit 4
Concord, NH 03303

Respondents shall photocopy this check and send it to HUD's Regional Counsel for New England at the address given below:

Miniard Culpepper, Regional Counsel
c/o Christopher Ligatti
U.S. Department of Housing and Urban Development
Office of Regional Counsel
10 Causeway Street, Room 310
Boston, MA 02222

IV. CIVIL MONEY PENALTY

A. Within thirty (30) days of the effective date of this Consent Order, Respondents shall pay a civil money penalty by certified or cashier's check in the amount of five thousand dollars (\$5,000). Respondents shall make the check payable to "Department of Housing and Urban Development." This sum shall be paid by submitting a certified or cashier's check to the following address:

Bank of America
P.O. Box 277303
Atlanta, GA 30384

Accompanying the check shall be a cover letter indicating that the check is for the civil penalty and referencing both case numbers, HUD ALJ No. 12-AF-060-FH-20 and FHEO Case No. 01-12-0228-8, on both the cover letter and the check. A copy of the letter and check shall be sent to HUD's Regional Counsel for New England at the address given above in Section III.

V. VICTIMS' COMPENSATION FUND

A. Within thirty (30) days of the effective date of this Consent Order, Respondents shall establish a victims' fund of \$1,000 to be held in escrow by Respondents' attorney. The Department will notify the three individuals it identified as aggrieved in the Amended Complaint of August 30, 2012, of the existence of this fund within thirty (30) days of the effective date of this Consent Order. Upon signing an agreement waiving their right to bring an action with HUD or in any other forum regarding the interactions between these persons and Respondents described in the Determination and Charge, such persons would receive \$333.33 from the escrow fund established by Respondents. No aggrieved person would be eligible to receive more than this amount and any remainder unclaimed thirty (30) days after the notice provided by HUD to the persons identified as aggrieved would be returned to Respondent Walker. Respondents shall send a copy of all payments made from the victims' fund to HUD's Regional Counsel for New England at the address given above.

VI. ACTIONS IN THE PUBLIC INTEREST

A. Respondents, their agents, employees, successors, members and assigns, and all other persons in active concert or participation with any of them, are hereby enjoined from violating the Fair Housing Act, including:

1. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of familial status, as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(a).
2. Making, printing, or publishing or causing to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or any intention to make any such preference, limitation, or discrimination, as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(c).

B. Respondent Scott Walker shall, within ninety (90) days of the effective date of this Consent Order, attend fair housing training to be conducted by a qualified fair housing enforcement agency. The training must cover Respondents' responsibility under federal, state and local fair housing laws, regulations and ordinances. Respondents may contact Daniel Weaver, Supervisory Equal Opportunity Specialist, at (617) 994-8311 for assistance in locating a qualified fair housing enforcement agency to conduct the required training. Respondents shall

provide a certificate of completion to HUD in a form to be provided to Respondents by HUD. Respondents as well as the instructor conducting the training shall sign and date the certificate of completion and send it to HUD within thirty (30) days of completion of the training. The certificate of completion shall be mailed to HUD's Regional Counsel at the address given above.

C. Respondent Scott Walker shall, with thirty (30) days of entry of the effective date of this Consent Order, provide a copy of this Consent Order to the governing realtor association or organization which has regulatory authority over Respondent Walker and/or Respondent Premiere Real Estate, LLC. A copy of this communication shall be sent to the HUD's Regional Counsel at the address given above.

D. During the term of this Consent Order, Respondent Scott Walker shall engage in affirmative marketing of all residential units owned by himself, Respondent Premier Real Estate, LLC, or any other company or organization owned by Respondents. When a residential unit becomes available, Mr. Walker shall engage in affirmative marketing by including the phrase "families welcome" or "family-friendly" in any and all advertisements placed regarding the available unit. To the extent Respondent Walker wishes to fulfill the affirmative marketing requirement through the use of other words or phrases, he may contact Daniel Weaver, Supervisory Equal Opportunity Specialist, at (617) 994-8311, to discuss other forms of affirmative marketing which HUD would find acceptable.

VII. REPORTING AND RECORD KEEPING

A. During the term of this Consent Order, Respondents shall copy HUD on all affirmative marketing done by Respondent Walker in accordance with Section VI.D. above.

B. Within sixty 60 days of the entry of this Consent order, Respondent Walker shall provide HUD with a copy of a written policy setting forth the minimum criteria for individuals to be qualified to rent residential units described in Section VI.D above. In framing such a policy, Respondent Walker may contact Daniel Weaver, Supervisory Equal Opportunity Specialist, at (617) 994-8311, to discuss the requirements of the Fair Housing Act.

C. To the extent an residential unit becomes available during the term of this Consent Order, Respondent Walker shall compile a log of all inquiries and applications regarding that unit, including the name of each person enquiring or applying, the contact information of the person, whether that person submitted a formal application, the presence of children in that person's family (if volunteered), the response to the inquiry, and, if the individual is denied or discouraged from applying, the justification for such action. This log shall be provided to HUD by the first day of every month during which the unit remains unrented and on the first of the month after the unit is rented. No logs are required during months in which no unit is available.

D. During the term of this Consent Order, Respondents shall notify HUD of any formal complaint filed against them with a local, state, or federal agency regarding equal opportunity or discrimination in housing within ten (10) days of receipt of any such complaint. Respondents shall provide a copy of the complaint with the notification to HUD. Respondents shall also

promptly provide HUD with all information it may request concerning any such complaint and its actual or attempted resolution.

E. All required notification and documents of compliance must be submitted to HUD as follows, unless otherwise indicated:

Susan Forward, Regional Director
c/o Daniel Weaver, Supervisory Equal Opportunity Specialist
U.S. Department of Housing and Urban Development
Office of the Fair Housing and Equal Opportunity
10 Causeway Street, Room 308
Boston, MA 02222

VIII. COMPLAINTS

A. During the term of this Consent Order, HUD may review compliance with this Consent Order, subject to and in accordance with HUD regulations. As part of such review, HUD may, upon providing advance notice of said inspection, inspect Respondents' property, examine witnesses, and copy pertinent records of Respondents. Respondents agree to provide their full cooperation in any compliance review undertaken by HUD to ensure compliance with this Consent Order.

B. Upon breach of any provision of this Consent Order, HUD may refer this matter to the Department of Justice to petition the United States Court of Appeals for the First Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j).

IX. ADMINISTRATION

A. This Consent Order shall remain in effect for a period of two (2) years from its effective date.

B. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. The effective date of the Consent Order is the date it becomes final, i.e., upon the expiration of thirty (30) days from the date of its issuance, or earlier affirmance by the Secretary. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.680(b)(2).

C. 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, by any other Complainants within HUD's jurisdiction.

D. The parties agree that if any party to this agreement needs an extension of time in order to satisfy a deadline, such an extension must be obtained in writing from HUD's Regional Counsel.

E. The signature of the parties to this Consent Order constitute a waiver of any right to apply for attorney fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney fees and costs.


F. The parties and counsel 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 individual signature pages to be attached to the body of the Consent Order to constitute one document to be filed with the Office of the Administrative Law Judges. Signatures of the parties to this Consent Order may be executed by way of facsimile or electronic transmission.

G. The signatures of the parties to this Consent Order constitute a waiver of any rights to withdraw their consent during the thirty (30) day Secretarial review period, and a waiver of any right to challenge the validity of the Consent Order at any time.

X. AGREEMENT OF THE PARTIES

The parties below have read this Consent Order in HUD ALJ 12-AF-060-FH-20 and have willingly signed it with a full understanding of the rights it confers and the responsibilities it imposes on them, as signified by their signature, or that of their counsel, below:

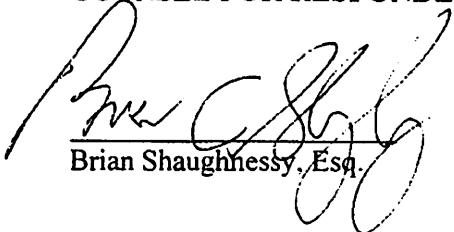
FOR COMPLAINANTS:

 Date: 12-13-12
JoAnn Murphy
Complainant
Parent of Minor Complainant Taylor Murphy


FOR RESPONDENTS:


 Date: 12-11-2012
Scott Walker
Premiere Real Estate, LLC

COUNSEL FOR RESPONDENTS:

 Date: 12/11/12
Brian Shaughnessy, Esq.

FOR THE DEPARTMENT:

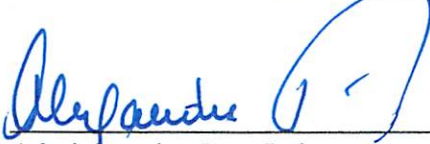
 Date: 12/12/12
Christopher C. Ligatti
Attorney

 Date: 12/13/12
Miniard Culpepper
Regional Counsel for New England

XI. ORDER OF THE COURT

The hearing in this matter was scheduled for March 5, 2013. The parties forwarded to the Court the foregoing Order, incorporating the terms of their agreement. Having reviewed the Consent Order, the Court find that it appears to be in the public interest. All parties have given their consent and signed the agreement incorporated in the foregoing Initial Decision and Consent Order, which is hereby accepted and issued.

So ORDERED, this 18 day of December 2012.



Administrative Law Judge