

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF HEARINGS AND APPEALS**

Secretary, United States Department of	)	
Housing and Urban Development, on behalf of	)	
Melissa Cortez,	)	
	)	
Charging Party,	)	
	)	
	)	HUDOHA No. 23-AF-0055-FH-003
v.	)	FHEO No. 10-20-2835-8
	)	
	)	
Bob Cave and Kye Patton,	)	
	)	
Respondents.	)	
_____	)	

**INITIAL DECISION AND CONSENT ORDER**

**I. Background**

On May 19, 2020, Complainant Melissa Cortez (“Complainant”) timely filed a verified complaint with the U.S. Department of Housing and Urban Development (“HUD” or “Charging Party”) alleging Respondents Bob Cave and Kye Patton (collectively “Respondents”), discriminated against her based on disability in violation of the Fair Housing Act (“Act”), as amended, 42 U.S.C. §§ 3601 *et seq.* On May 16, 2022, HUD notified Respondents that, pursuant to 24 C.F.R. § 103.405(a)(3), it was investigating whether Respondents made housing unavailable based on disability.

On February 10, 2023, HUD filed a Charge of Discrimination (“Charge”) against Respondents. The Charge alleged Respondents denied Complainant’s reasonable accommodation request to waive a no-pet policy while Complainant was a tenant at the property (“Subject Property”) that Respondent Patton owned and Respondent Cave managed. As alleged in the Charge, Complainant has mental impairments that substantially limit her major life activities, including sleeping, concentration, social interaction with others, working, reasoning, and caring for herself. As alleged in the Charge, on February 25, 2020, Complainant requested a reasonable accommodation to have an assistance cat and assistance dog, which would help alleviate symptoms of her disabilities. The Charge alleges that on February 26, 2020, Respondents denied the request in a letter to the Complainant, which said: “We will NOT be changing our rental policy. If you feel that you need this accommodation, then please look for another place to live. We will NOT accept any animals of any kind no questions asked. I will

give you a good rental reference if needed.” (Emphasis in original). As alleged in the Charge, Respondent Cave also verbally denied the request, telling Complainant that he would not change the rental policy, would not accept any animals of any kind, and that Complainant would need to seek new housing if she insisted on an accommodation. The Charge alleges Complainant subsequently vacated the Subject Property and moved to a different residence that would allow her to live with an assistance cat and dog.

The Charge alleges that Respondents discriminated against Complainant on the basis of disability in violation of Subsections 804(f)(1), 804(f)(2), 804(f)(3)(B), and 804(c) of the Act by making housing unavailable; discriminating in the terms, conditions, or privileges of the rental of a dwelling; refusing to grant a reasonable accommodation in the rules, policies, practices, or services; and making discriminatory statements.

Respondents deny violating the Act as alleged in the Charge. Respondents' execution of this Consent Order does not constitute an admission of any facts, fault, or liability on their part.

The Charging Party, Complainant, and Respondents ("the parties") have agreed to voluntarily resolve this matter without a hearing before a HUD Administrative Law Judge. Accordingly, the parties have agreed to the entry of this Initial Decision and Consent Order ("Consent Order") as attested by their signatures below.

## **II. General Provisions**

1. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed Charge. No party has been coerced or in any way forced to become a party to this Consent Order.
2. The signature of the parties to this Consent Order may be executed by way of facsimile transmission, or other electronic means, 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.
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 parties agree that the Charging Party shall file with the Office of Hearings and Appeals a Joint Motion for Entry of an Initial Decision and Consent Order, along with this Consent Order after it is executed by all parties.
5. This Consent Order is binding upon Respondents, their employees, successors, agents, assigns, and all others in active concert with them in the rental and management of all residential dwellings owned or managed in whole or in part by Respondents.
6. Pursuant to 24 C.F.R. § 180.680(a), this Consent Order is a public document.

7. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other complaint involving either Respondent made pursuant to the Act, or any other complaint within HUD's jurisdiction.
8. In exchange for compliance with the provisions of this Consent Order, Complainant hereby forever waives, releases, discharges, and covenants not to sue Respondents, their employees, agents, successors, and assigns, with regard to any and all claims, damages and injuries of whatever nature, whether presently known or unknown, arising out of, or related to, the subject matter of HUDOHA No. 23-AF-0055-FH-003/FHEO No. 10-20-2835-8, which could have been filed in any action or suit arising from said subject matter, except where necessary to enforce this agreement.
9. In exchange for Complainant's compliance with the provisions of this Consent Order, the Respondents hereby forever waive, release, and covenant not to sue Complainant, HUD, their employees, agents, successors, and assigns, with regard to any and all claims, damages and injuries of whatever nature, whether presently known or unknown, arising out of, or related to, the subject matter of HUDOHA No. 23-AF-0055-FH-003/FHEO No. 10-20-2835-8, which could have been filed in any action or suit arising from said subject matter, except where necessary to enforce this agreement.

### **III. Relief for Complainant**

10. Respondents shall pay SEVENTEEN THOUSAND DOLLARS (\$17,000) to Complainant, as full settlement of her claim for compensatory damages. Payment shall be made in the form of a cashier's check payable to "Melissa Cortez" within thirty (30) days of the effective date of this Consent Order. Payment shall be sent by certified or overnight mail, signature required, to: Melissa Cortez, 14303 S Cave Ave., El Paso, TX 79938. A scanned copy of the cashier's check and proof of mailing, including tracking information, shall be sent the same day via electronic mail to Counsels for the Charging Party at [james.w.radcliffe@hud.gov](mailto:james.w.radcliffe@hud.gov) and [maryl.h.evans@hud.gov](mailto:maryl.h.evans@hud.gov).

### **IV. Relief in the Public Interest**

11. Respondents, their employees, agents, successors, and assigns are hereby enjoined from violating the Act as amended, 42 U.S.C. §§ 3601 *et seq.*, including, but not limited to, discriminating on the basis of disability by failing to make a reasonable accommodation in the rules, policies, practices, or services when such reasonable accommodation may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
12. Within one hundred twenty (120) days of the effective date of this Consent Order, Respondents shall participate in fair housing training to be conducted by a vendor to be selected by Respondents. All costs of training, if any, shall be borne by Respondents. The training will cover Respondents' obligations under the Act, and will specifically address the law governing the handling of requests for reasonable accommodations. Such training

does not satisfy the requirements of this paragraph unless FHEO approves it. Respondents can contact HUD's Office of Fair Housing and Equal Opportunity ("FHEO") to get assistance in locating a qualified training provider. Respondents may view the FHEO-approved training "Understanding Fair Housing: Training for Landlords, Property Managers, and Realtors," available on YouTube's HUD channel at <https://www.youtube.com/watch?v=ijMFCWtbWtQ>. Respondents shall submit proof of their attendance upon completion of the training to HUD.

13. Within one hundred and twenty (120) days of the effective date of this Consent Order, Respondents shall develop a written Reasonable Accommodation and Reasonable Modification Policy that shall apply to any residential dwelling owned or managed in whole or in part by Respondents. The Reasonable Accommodation and Reasonable Modification Policy must comply with the Act. A copy of the reasonable accommodation policy shall be forwarded to HUD within ten (10) days of its creation.
14. Within thirty (30) days of adopting their Reasonable Accommodation and Reasonable Modification Policy, Respondents shall notify in writing all residents of residential properties owned or operated by Respondents that they have adopted and implemented a Reasonable Accommodation and Reasonable Modification Policy and provide all tenants with a copy of the Reasonable Accommodation and Reasonable Modification Policy. As soon as practicable, but not later than one hundred and fifty (150) days of the effective date of this Consent Order, Respondents shall send verification to HUD that they have complied with this paragraph.

## **V. Reporting and Recordkeeping**

15. During the term of this Consent Order, Respondents shall notify HUD of any formal complaint filed against them regarding housing discrimination within ten (10) days of receipt of any such complaint. Respondents shall include a copy of the complaint with its notification to HUD. Respondents shall also provide HUD with all information HUD may request concerning any such complaint and its actual or attempted resolution.
16. During the term of this Consent Order, Respondents shall maintain records regarding their implementation of the Reasonable Accommodation and Reasonable Modification Policy, including their receipt and processing of reasonable accommodation and reasonable modification requests, a statement of whether the request was rejected or accepted, the date of such action, and, if rejected, the reason for the rejection.

## **VI. Compliance**

17. During the term of this Consent Order, HUD may review compliance with this Consent Order, subject to and in accordance with HUD regulations. As a part of such review, HUD may inspect, with reasonable notice, any and all residential rental properties owned or managed by Respondents, may examine witnesses, and may examine and copy pertinent records of Respondents. Respondents agree to provide full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Consent Order.
18. 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 Ninth Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j). Prior to referring any matter to the Department of Justice, HUD shall provide written notice to Respondents of a suspected breach and allow Respondents fifteen (15) days to respond, and where necessary, provide documentation curing any breach.

## **VII. Administration**

19. Unless otherwise stated herein, all notices, requests, and correspondence to HUD that this Consent Order requires shall be sent via electronic mail to Han Lee, FHEO Enforcement Branch, Region X, at [han.lee@hud.gov](mailto:han.lee@hud.gov).
20. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. This Consent Order will become effective and final thirty (30) calendar days from the date it is issued by the HUD Administrative Law Judge, or earlier if it is affirmed by the Secretary within that time ("effective date"). 24 C.F.R. § 180.680(b).
21. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty-day period of review by the Secretary and a waiver of any right to challenge the validity of the Consent Order at any time.
22. This Consent Order shall remain in effect for a period of three (3) years from its effective date.
23. Each party is responsible for that party's own attorney's fees and costs, if any.
24. The parties agree that if a party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained in writing from counsel for the Charging Party, at [james.w.radcliffe@hud.gov](mailto:james.w.radcliffe@hud.gov) and [maryl.h.evans@hud.gov](mailto:maryl.h.evans@hud.gov).

**VIII. Dismissal of Charge**

25. In consideration of Respondents' payment to Complainant, compliance with the terms and conditions of this Consent Order, and all orders contained herein, the Charging Party and Complainant agree to the dismissal, without a formal determination of the allegations that Respondents injured Complainant by violating the Act. Therefore, the Charge against Respondents is hereby DISMISSED with prejudice. However, nothing in this paragraph shall be construed to prevent any of the parties from taking action to enforce this Consent Order.

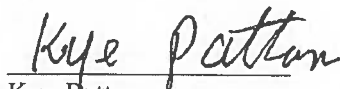
**IX. Agreement of the Parties**

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

**RESPONDENTS:**

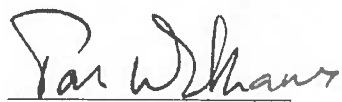
  
Bob Cave

7-14-2023  
Date

  
Kye Patton

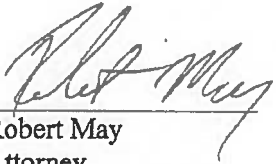
7-14-2023  
Date

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7/24/2023  
Date

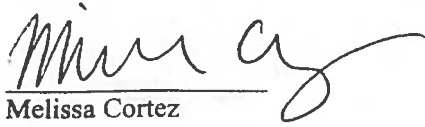
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July 24, 2023  
Date

COMPLAINANT:

  
Melissa Cortez

7/11/23  
Date



CHARGING PARTY:

**JAMES**

**FROEMBLING**

Digitally signed by JAMES FROEMBLING  
DN: CN = JAMES FROEMBLING C = US  
O = U.S. Government OU = Department of  
Housing and Urban Development, Office  
of Administration  
Date: 2023.07.17 14:25:21 -07'00'

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07/17/2023

Date

**JEANA**

**POLONI**

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07/10/2023

Date

**JAMES**

**RADCLIFFE**

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7/10/2023

Date

**MARYL  
EVANS**

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7/10/2023

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**X. Order of the Court**

On July 26, 2023, the parties forwarded an Initial Decision and Consent Order to the Office of Hearings and Appeals, incorporating the terms of their agreement. Having read the agreement and considered the record in its entirety, the undersigned Administrative Law Judge has independently determined, in accordance with 24 C.F.R. § 180.450, that the agreement does not offend 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 entered.

This Initial Decision and Consent Order carries no precedential weight, as the matter has been reviewed solely to determine that the parties' settlement does not offend the public interest. No opinion is expressed on legal or policy statements contained herein, nor on the form or quantum of the agreed relief.

So ORDERED, this 27<sup>th</sup> day of July, 2023.

**ALEXANDER  
FERNANDEZ-PONS**

Digitally signed by: ALEXANDER FERNANDEZ-PONS  
DN: CN = ALEXANDER FERNANDEZ-PONS C = US  
O = U.S. Government OU = Department of Housing  
and Urban Development, Office of the Secretary  
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Alexander Fernández-Pons  
Administrative Law Judge