

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  
Bonnie Jouhari and Pilar Horton  
(minor child of Bonnie Jouhari),

Charging Party,

v.

Ryan Wilson and  
Ryan Wilson d/b/a ALPHA HQ.,

Respondents.

HUDALJ 03-98-0692-8

Decided: July 19, 2000

Patricia McGarvey Knebels, Esq.  
Alexandria Lippincott, Esq.  
For the Charging Party

Elizabeth Kleinberg, Esq.  
Southern Poverty Law Center  
For the Complainants

Before: ALAN W. HEIFETZ  
Chief Administrative Law Judge

**INITIAL DECISION AND ORDER**

**Statement of the Case**

This matter arose as a result of a complaint filed on or about August 28, 1998, by Bonnie Jouhari alleging discrimination in violation of the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.* ("the Act"). On October 1, 1999, Ms. Jouhari amended the complaint to include her daughter Pilar Danielle Horton. On January 14, 2000, following an investigation and a determination that reasonable

cause existed to believe that discrimination had occurred, the Department of Housing and Urban Development (“HUD” or “Charging Party”) issued a Charge against Ryan Wilson and Ryan Wilson doing business as (“d/b/a”) ALPHA HQ (“Respondents”), alleging that the Respondents engaged in discriminatory housing practices in violation of Section 818 of the Act, 42 U.S.C. § 3617. The Charging Party alleged that Respondents intimidated, threatened, and interfered with Ms. Jouhari and Ms. Horton (“Complainants”) in their exercise and enjoyment of rights granted and protected by the Act. The Charging Party further alleged that Respondents discriminated against Ms. Jouhari due to her work as a fair housing advocate, and against Ms. Horton because of her race.

Because Respondents failed to answer the Charge, the Charging Party moved for a default judgment on February 18, 2000. On February 29, 2000, I granted a default judgment against Respondents finding that, by virtue of their failure to respond to the Charge, they admitted all matters of fact alleged in the Charge and violated 42 U.S.C. § 3617. Accordingly, the scheduled hearing was limited to the issue of the appropriate relief to be awarded to the Complainants.

On February 28, 2000, Respondents wrote to counsel for the Charging Party acknowledging receipt of the Charge and requesting discovery materials. Counsel for the Charging Party provided discovery materials to Respondents in two separate mailings; however, Respondents did not respond to any of the Charging Party’s discovery requests. During discovery, the Charging Party noticed Ryan Wilson’s deposition on three separate occasions and sought admissions from, and submitted interrogatories to Respondents. Wilson failed to attend any of the scheduled depositions or to respond to the interrogatories or requests for admissions. The Charging Party filed motions for sanctions against Wilson for failing to appear for the three depositions. Wilson did not respond to those motions, and I granted the motions, stating that the specific sanctions imposed would be specified in this Initial Decision.

A hearing was held on April 18 and 19, 2000, in Philadelphia, Pennsylvania. The Charging Party filed a post-hearing brief on June 7, 2000, and Complainants filed a post-hearing brief on June 14, 2000. Although Respondents received all procedural notices, including notice of the hearing, they neither appeared at the hearing nor filed any pleadings or briefs in the proceeding. Accordingly, the findings of fact that follow are uncontested.

## **Findings of Fact**

### **PARTIES AND BACKGROUND**

1. Complainant Jouhari worked as a Fair-Housing Specialist at the Reading-Berks Human Relations Council (“HRC” or “Council”), a private, non-profit fair-housing

organization located in Reading, Pennsylvania, from August 23, 1995, until November 20, 1998. Charge ¶ 4; Tr. Jouhari, 128, 130; C. P. Ex. 17.<sup>1</sup>

2. As a Fair-Housing Specialist, Ms. Jouhari's responsibilities included investigating complaints of discrimination, conducting fair housing testing and training, doing community outreach to educate the public about fair housing rights and cultural sensitivity, and running the Berks County Conflict Resolution Task Force, informally known as the Tension Task Force. Charge ¶ 4, Tr. Jouhari, 132-135; McCracken, 314-315. Ms. Jouhari created the locally-based Berks County Conflict Resolution Task Force, which was comprised of local, state, and federal authorities dealing with discrimination and monitoring the civil tensions in Reading and Berks counties. Tr. Jouhari, 138; McCracken, 314. Ms. Jouhari was well known in the Reading-Berks civil-rights community as being a progressive and energetic advocate. Tr. Witness A, 309; McCracken, 319-320, 332, 333. She planned to attend law school. Tr. Jouhari, 223.

3. Ms. Jouhari also participated in a civil-rights task force of federal and state government agencies, known as the Interagency Task Force on Civil Tension, also informally called the Tension Task Force. Tr. Jouhari, 135; Witness A, 290, 293. Through her work at the Council and with the task forces, Ms. Jouhari became knowledgeable about white supremacist ideology, terminology, and activities. Tr. Jouhari, 135; Witness A, 300; McCracken, 315-316.

4. Ms. Jouhari earned an annual salary of \$25,750.00 in 1998, and her employer provided life insurance, medical and dental insurance for herself and her daughter, and sick and vacation leave at a cost to the HRC of \$181.72 per month. Tr. Jouhari, 131; McCracken, 316, 318; C. P. Ex. 17. Complainant Jouhari had regularly received raises in her salary and awards for outstanding work. At the time she left the Council, she was due for a raise of 4% of her salary retroactive to August 1998. Tr. Jouhari, 131-132; McCracken, 319. In addition, Ms. Jouhari was due for another 4% raise in August 1999. Tr. McCracken, 319.

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<sup>1</sup>The following reference abbreviations are used in this decision: "Tr." for "Transcript" and "C.P. Ex." for "Charging Party's exhibit." Transcript references are preceded by the name of the witness; however, I granted the Charging Party's Motion for a Protective Order and a Motion for a Partially Closed Courtroom in order to ensure the safety of Complainants' and the Charging Party's witnesses, and accordingly, the names, addresses, and telephone numbers of certain witnesses have been omitted and they are referred to as Witness A, B, C, etc.

5. Before she left the HRC, Ms. Jouhari had received many awards and letters of commendation, and was recognized in the civil-rights community as a vocal advocate who spoke out against housing discrimination and all forms of hate activity. Charge ¶ 5, Tr. McCracken, 316, 319-320. Before Ms. Jouhari left the Council she had submitted a fair housing grant application to HUD on behalf of the Council. That \$160,000.00 grant was awarded after Ms. Jouhari left Reading. Tr. McCracken, 320.

6. Complainant Horton is the daughter of Ms. Jouhari. She was a minor at the time the Complaint was filed in 1998. Until March 2000, she resided with her mother in the Reading area of Pennsylvania, and later in three different locations in Washington State. Ms. Jouhari is Caucasian. Ms. Horton is Caucasian and African-American. Charge ¶ 2. Tr. Horton, 24.

7. The Respondents are Ryan Wilson and Ryan Wilson doing business as ALPHA HQ. Charge ¶ 3. Ryan Wilson was the former leader of the United States Nationalist Party and is the current leader of ALPHA HQ, an organization with approximately 80 members whose purpose is to further the goals of the white supremacist movement. Tr. Cochran, 248; Hendrickson, 400. Ryan Wilson, through ALPHA HQ, created an Internet website with the following Uniform Resource Locator: "www.alpha.org/stateofhate.html" ("ALPHA HQ website"). Charge ¶ 3. Tr. Hendrickson, 400-404.

## DISCRIMINATORY EVENTS

8. Floyd Cochran, a former white supremacist and the leader of Education Vigilance Network, had been monitoring the ALPHA HQ website. On or about March 21, 1998, Mr. Cochran notified Bonnie Jouhari by telephone that her picture appeared on that website. Charge ¶ 6, Tr. Jouhari, 136; Cochran, 250, 257-258; Goldman, 296.

9. The ALPHA HQ website displayed a photograph of Bonnie Jouhari holding up a flyer she had received which read "Race Traitor Beware" and depicted a hooded Klansman holding a noose. The website reprinted Ms. Jouhari's photograph, taken during a television interview, with a caption that stated:

This 'woman' works at the Reading-Berks Human Relations Council and has received warnings in the mail that she is a race traitor and she should beware. Traitors like this should beware, for in our day, they will be hung from the neck from the nearest tree or lamp post.

Charge ¶ 7; C. P. Ex. 5.

10. Immediately above Ms. Jouhari's picture, the website showed an animated photographic image of the Reading-Berks Human Relations Council exploding into flames. The caption next to that image read: "The Reading-Berks Human Relations Council. This is the office where plans for additional race-mixing and 'integration' are planned." Charge ¶ 8; C. P. Ex. 5.

11. Ms. Jouhari first viewed the ALPHA HQ website in the form of a hard copy printout. Tr. Jouhari, 140. Initially, she was very concerned about the website and contacted an Assistant United States Attorney, the Federal Bureau of Investigation ("FBI"), the Pennsylvania Human Relations Commission, the State of Pennsylvania's Deputy Attorney General, and her supervisor at the HRC, Steve McCracken, to determine what could be done about the website. Tr. Jouhari, 142-143; Witness A, 296-305; McCracken, 321-324.

12. Ms. Horton first learned of the ALPHA HQ Website from her mother in March 1998. Tr. Horton, 46. Ms. Horton did not see the ALPHA HQ Website herself until she saw a printout of it sometime between August and October, 1998, during the taping of an episode for the "48 Hours" television show. Tr. Horton, 48. Ms. Horton also saw the animated version of the ALPHA HQ Website when the "48 Hours" episode aired twice, in October 1998 and an update in September 1999. Tr. Horton, 48.

13. During a summer 1998 interview with reporter Lu Ann Cahn of Channel 10-NBC News, Respondent Wilson reiterated the threat against Ms. Jouhari that was posted on the ALPHA HQ website. Ms. Cahn asked him whether he "would ever hang her [Jouhari] from a tree." He responded, "[i]n our time, yes." Tr. Jouhari, 162-164. Charge ¶ 16; C.P. Ex. 6. Ms. Jouhari viewed a videotape of the interview during the summer of 1998. Tr. Jouhari, 163. Ms. Jouhari was very concerned about the threat because she believed that Wilson meant it. Tr. Jouhari, 164.

14. Wilson is the acknowledged creator of the ALPHA HQ website. In an interview with agents of the FBI, he expressed pride in the website and the fact that the website had been visited by 97,157 people in the last three years. Tr. Hendrickson, 400-404. The purpose of the website was to further the goals of the white separatist movement and to make known to anyone interested in the movement their ideals, as well as the identities of those persons who were against them. He denied making any threats or taking any harassing action against Ms. Jouhari. However, because she was directly opposed to the goals of

his organization, he expressed comfort with her harassment by anyone in his organization or anyone involved in the white separatist movement. Tr. Hendrickson, 405-406.

15. Sometime in the summer of 1998, Ms. Jouhari became aware that Wilson made changes to the published ALPHA HQ website. On the modified site, he described Ms. Jouhari's daughter, Ms. Horton, as a "mongrel." He also posted a recipe for a bomb and added the following disclaimer:

This organization does not wish to imply that the individuals mentioned in the above article or in any location throughout this website be harassed or injured in any way. For legal reasons we must make this statement. If those people are still alive when the political tide swings back to the right... they will find our wrath something to be dealt with.

Charge ¶ 11, 17; Tr. Jouhari, 160-161; Tr. Goldman, 277

16. The reference to her daughter as a "mongrel" terrified Ms. Jouhari because her worst fears were that "they'd find out – that she's biracial." Charge ¶ 11; Tr. Jouhari, 161. She found the disclaimer "ludicrous" and not genuine or meaningful. Tr. Jouhari, 161. The bomb recipe was under the picture of Ms. Jouhari's office. Tr. Jouhari, 161. The threats on the ALPHA HQ website against Ms. Jouhari and her daughter prompted an investigation by the Pennsylvania Attorney General. Charge ¶ 18, Tr. Jouhari, 166.

17. Floyd Cochran and David Goldman provided expert testimony in this proceeding. The findings in the next seven paragraphs are based on their opinions. Cochran and Goldman are experts in the use, meaning, and dissemination of code words and phrases commonly used by white supremacists. They are both knowledgeable about white supremacy ideology. Tr. Cochran, 253-258; Goldman, 276-283. Mr. Cochran is a former recruiter with the Aryan Nations. He is now an anti-hate activist, operating a website and touring on a speaking circuit. Mr. Goldman is the Executive Director of Hate Watch, a web-based organization that monitors the growing and evolving threat of hate group activity on the Internet. Tr. Goldman, 263-264.

18. Wilson is known as a leader and an influential rising star in the white supremacist movement. He successfully organized a gathering of 80 racists in New Hope, Pennsylvania, and has appeared in several television interviews. He is admired by those who leave comments on the ALPHA HQ website. By taking aggressive actions against Ms. Jouhari, he hoped to increase his following. Tr. Cochran, 248-249, 262.

19. The ALPHA HQ website was held in high regard for its technological advances, including voice-overs and animation. Tr. Cochran, 248. Wilson dedicated a significant amount of time to finding a dramatic image of an explosion that he could incorporate into his ALPHA HQ website. Tr. Hendrickson, 402. In addition to being well designed, the ALPHA HQ site also attracted attention for its depiction of overt violence and the specificity of its attack against Ms. Jouhari. Tr. Goldman, 276-278. The ALPHA HQ website contained bomb-making recipes from popular white supremacist literature, including the *Anarchist's Cook Book*. The website highlighted the recipe used in the bombing of the Federal building in Oklahoma City. Tr. Goldman, 277; see also Cochran, 249. The ALPHA HQ website also listed various types of guns, noting the advantages and disadvantages of different types and offering information on how to obtain various weapons. Tr. Cochran, 249; Tr. Goldman, 277. The website also posted a support list for "prisoners of war"-- people who had been incarcerated for racist crimes. Tr. Cochran, 249. Ensuring visibility for his target, Wilson placed Ms. Jouhari's photograph and the image of her office blowing up in the main frame on the second page of the website. A visitor to the ALPHA HQ website had to pass through that frame to continue exploring the site. Tr. Goldman, 278; see also Tr. Cochran, 252.

20. The ALPHA HQ images of Ms. Jouhari, the reference to Ms. Horton as a "mongrel," the graphic image of the HRC office exploding in flames, and the website text were the equivalent "of burning a cross on someone's property." Tr. Cochran, 256. The message conveyed by the website was that Ms. Jouhari's presence in the community was not acceptable, that she was being watched, and that white supremacists in the community should know that she has been targeted. Tr. Cochran, 256; Goldman, 280, 284. That message was conveyed in the hope, if not the expectation, that other white supremacists would take some specific action to harm or intimidate the target. Tr. Cochran, 259. Once white supremacists target an individual, harassment in the form of cross-burnings, receipt of e-mails, telephone calls, or dead animals usually follows. Property damage, assault, attempted murder, or murder may also follow. Tr. Cochran, 260; Goldman, 285.

21. Wilson targeted Ms. Jouhari as an enemy of the white race. He targeted her as a "race mixer" because she had a biracial child, and as a "race traitor" because she had had sexual relations with an African-American man. She also was a "race traitor" because she was a fair housing advocate who promoted integration. Tr. Cochran, 254.

22. The words “Race Traitor Beware” that Wilson chose for the caption next to Ms. Jouhari’s image on the website came from *The Turner Diaries*, by William Pearce. Tr. Goldman, 281. First published in 1978, *The Turner Diaries* is a bible for white supremacists, depicting so-called enemies of white supremacists “hung from the neck from the nearest tree or lamp post,” the same words Wilson used to target Ms. Jouhari. Tr. Cochran, 255; Goldman, 281; Hendrickson, 403. Wilson used his web page to identify Ms. Jouhari as a race traitor and to incite other white supremacists to action. In doing so he intended to benefit from the concept of “leaderless resistance,” an integral feature of white supremacist activity. “Leaderless resistance” is

a philosophy of armed struggle that’s utilized and advocated in the white supremacist world. Essentially, it says that rather than taking action as a group, as an organization such as the Ku Klux Klan, individuals, without having direction from a leader, should take hostile or harassing action against victims or potential victims in order to give deniability to the organization, but also at the behest of the greater white revolution.

Tr. Goldman, 268; see also Cochran, 259.

23. White supremacy websites use disclaimers “tongue-in-cheek as to be a wink toward other people that are looking at it or they simply won’t use it.” Tr. Goldman, 279.

24. To become a soldier in the white supremacists’ Racial Holy War, known as RAHOWA, one must engage in violent armed struggle against Jews, other minorities (known as mud races), and whites, such as Ms. Jouhari, who are believed to be race traitors. Tr. Goldman, 270. Any white supremacist who wants to qualify as a warrior within the movement will take violent and/or harassing action against a targeted person. Tr. Cochran 260. Wilson’s intent was to intimidate Ms. Jouhari into stopping her fair housing work and advocacy. Tr. Cochran, 261. His intent

was not merely to express his disagreement with her [Ms. Jouhari] specifically, but was to encourage others to take it upon themselves to harass Ms. Jouhari. He was marking her as a possible target for anybody who went to his website, and [his website] was quite popular, anybody that thought that this was an important target to pursue [would do so], and that was his intent.

Tr. Goldman, 284.

25. Almost immediately after the ALPHA HQ website appeared, Ms. Jouhari and her daughter began to receive “a lot of phone calls.” Charge ¶ 10, Tr. Jouhari, 146-7; Witness A, 302-303; Witness C, 342. At night, when the Complainants were home:

the phone would ring and ring and ring and ring and it would be either no one there or someone playing this bizarre music that I refer to as funeral dirges . . . it was really annoying, or somebody just calling and staying on the phone. Sometimes they stayed on the phone so long I could go take a shower and come back and they were still on the phone. It got to the point where I just unplugged the phone at night. I just stopped – I had a pager and I started telling my friends just page me if you want to talk to me and I’ll plug the phone in and call you back.

Tr. Jouhari, 146-147.

26. Ms. Jouhari also obtained a telephone line with an unlisted number for her daughter. Tr. Jouhari, 151. Even with an unlisted number, Ms. Horton began to receive harassing telephone calls on her personal telephone line. Charge ¶ 10; Tr. Horton, 56. Those telephone calls ranged from hang-up calls to silent calls, to loud music or indistinct talking, to conversation directed to her. Tr. Horton, 57-58. Ms. Horton did not answer her mother’s line, but she observed her mother receiving harassing telephone calls. Tr. Horton, 56.

27. Ms. Jouhari also received numerous calls on her answering machine and voice mail system. She received

[l]ots and lots and lots of hang up calls. I believe at some point in there I got voice mail and it was just one after the other. Sometimes I’d pick it up and you have 21 new messages, I’m like okay, I don’t get 21 phone calls from people that I know in a month, because they know to call me at work .

..

Tr. Jouhari, 149.

28. In the summer of 1998, Ms. Horton received a telephone call that particularly disturbed her mother and her. The caller, a woman, stated that she knew what Ms. Jouhari’s room looked like, and said “we’ve seen the inside of your mom’s room.” Tr. Horton, 58; Jouhari, 164; Witness A, 303; Witness C, 342-243, 346. Ms. Jouhari was “terrified” because she now believed that someone knew where they lived and had been in their house. Tr. Jouhari, 164-165; Witness C, 346. Ms. Jouhari believed that Wilson and his followers were trying to scare her

into stopping her work, and she worried that if they could not stop her, they would use her daughter to get her to stop. Tr. Jouhari, 165.

29. Despite calls to law enforcement agencies and the telephone company, use of the \*57 telephone feature which automatically traces an incoming call for law enforcement authorities, and a telephone number change to an unlisted number, Ms. Jouhari and her daughter continued to receive numerous “harassing” telephone calls. Tr. Jouhari, 149-150. Ms. Jouhari also began receiving harassing phone calls at her office. Callers would ask for her, but would hang up when the call was transferred to her by the secretary. Tr. Jouhari, 151-152; see *also*, Witness A, 303; McCracken, 325; Witness C, 340-342.

30. Ms. Jouhari’s coworkers at the Council also were very concerned about the website. They considered the animation of the HRC building bursting into flames to be a direct threat to Ms. Jouhari and all HRC personnel. Tr. McCracken, 323; Witness C, 339. In reaction to the threats on the website, the office closed all window blinds, and many staff members refused to enter the office on weekends or after regular work hours. Tr. McCracken, 324. The Executive Director of the HRC notified local police about the hang-up phone calls and strange beeping sounds on the line that began after the ALPHA HQ website aired. Tr. McCracken, 325. Concern over the ALPHA HQ website overshadowed the daily operations of the HRC office. Tr. McCracken, 327.

31. From March 1998 until Complainants moved in with a friend in October 1998, they received from one to as many as 30 harassing phone calls daily on their two telephone lines. Tr. Horton, 55-56.

32. In addition to being inundated by harassing telephone calls, Complainant Jouhari was intimidated by the presence outside her office window of a known Ku Klux Klansman, Roy Frankhouser. Frankhouser hosted a local television show called “White Forum,” and on at least one occasion he referred to Ms. Jouhari and showed the ALPHA HQ website on that show. Tr. Jouhari, 157. Often during the time the ALPHA HQ website was on the Internet, Frankhouser sat outside Ms. Jouhari’s office window, sometimes for hours at a time. On occasion he took Ms. Jouhari’s photograph. Tr. Jouhari, 155-156. Ms. Jouhari participated in a number of public access television interviews, and during at least one, Frankhouser called in and addressed Ms. Jouhari directly, indicating that he, or the Klan, was watching her. Tr. Jouhari, 158. Ms. Jouhari believed that Frankhouser’s frequent presence on a bench outside her office was connected

with the ALPHA HQ website.<sup>2</sup> Tr. Jouhari, 157-158.

33. After viewing the ALPHA HQ website, Ms. Jouhari became extremely cautious in all her daily activities. She would no longer allow her daughter to stay home alone, come to her office, or answer Ms. Jouhari's telephone. Tr. Horton, 55; Jouhari, 144, 155. She altered her work schedule, no longer staying in the office late at night. Tr. Jouhari, 145. She attempted to limit her daughter's activities, and she became frustrated at her inability to make her daughter feel safe. Tr. Jouhari, 155-156; Witness A, 300; Witness C, 343.

34. After the ALPHA HQ website appeared, Ms. Horton, in turn, became concerned for her mother's safety and would often check on her by telephone. Tr. Horton, 349. During August through October 1998, the television program "48 Hours" interviewed the Complainants about the threats they had received. During those interviews, Ms. Horton learned for the first time the full scope of the danger her mother faced, and she then fully realized the gravity of the situation confronting them as a family. She understood that her mother's attempts to exert greater control over her life were a reaction to the threats on both their lives. Tr. Horton, 52-54.

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<sup>2</sup>The original complaint in this matter also named Roy Frankhouser and the United Klans of America. The complaint against Frankhouser and the United Klans of America was closed, but on February 22, 2000, the Secretary of HUD reopened the fair housing case against them, assigning it case number 03-98-0797-8. I take official notice of the fact that Frankhouser settled that case on or about May 11, 2000, agreeing, inter alia, to pay a part of his income to and to apologize publicly to Complainants Jouhari and Horton.

35. Reacting to the threats on the ALPHA HQ website, Ms. Jouhari obtained a license to carry a weapon and purchased a nine millimeter handgun which she carried for two years. Tr. Jouhari, 176-8. By the end of the summer of 1998, Ms. Jouhari felt that she and her daughter were not going to get any help from the law enforcement agencies they had contacted. She decided that her only option was to leave Reading with her daughter before the website threats came to fruition. Tr. Jouhari, 166, 176; Witness C, 347; McCracken, 327-328.

36. Reluctantly, Ms. Jouhari began to explore possible relocation to the West Coast. Tr. Jouhari, 166-167. In September 1998, she bought plane tickets, at a cost of \$349.00 per ticket, for herself and her daughter to fly to Seattle, Washington, where they stayed for several days, assessing prospects for housing and a job. Tr. Jouhari, 166. She had hoped not to have to leave the Reading area: "I didn't want to leave the only place I ever knew. I didn't want to leave my job and the benefits. I was holding out hope that something would happen to make this better." Tr. Jouhari, 167.

37. On their exploratory trip to Seattle, Ms. Jouhari was unable to find a job, but she and her daughter were able to find an apartment that would be available when they moved. On their return to Reading, they prepared for their move to the West Coast. Tr. Jouhari, 171. On September 2, 1998, Ms. Jouhari gave her letter of resignation to the HRC. In the letter, she stated that her last day of work would be November 6, 1998. Tr. Jouhari, 172; Witness C, 347; C. P. Ex. 8. In addition, she notified her landlord that she would be vacating her apartment. Tr. Jouhari, 173; Witness C, 328-329.

38. Prior to leaving Reading, Ms. Jouhari and her daughter lived on Ms. Jouhari's salary, honoraria from speaking engagements, and child support checks. Ms. Jouhari had no savings account. Tr. Jouhari, 173. In order to finance the move across the country, Ms. Jouhari delayed paying most of her bills, moved into a friend's apartment, and saved as much money as she could. Tr. Jouhari, 174.

39. When Ms. Horton was told by her mother that they would move from Reading, she became angry, confused, and nervous. Having lived her whole life in Reading where she had friends and familiar surroundings, she became anxious because she did not know what to expect from unfamiliar schools, classmates, and surroundings. Tr. Horton, 59-60.

## COMPLAINANTS' LIVES BEFORE AND AFTER THE ALPHA HQ WEBSITE

### Reading, Pennsylvania

40. Prior to the airing of the ALPHA HQ website, Bonnie Jouhari was an unflappable, committed, insightful, and hard worker, excited about her job. She was a happy, outgoing, outspoken person. Tr. Jouhari, 225; Witness A, 309; McCracken, 332; Witness C, 349; Witness B, 355. To her daughter, she was “pretty laid-back, kind of silly...a laid-back, hanging out, laughing kind of person.” Tr. Horton, 58.

41. After the ALPHA HQ website aired, Ms. Horton noticed that her mother always was worried about something and not sleeping well. Her mother was “stressed out and high-strung.” Tr. Horton, 59; Tr. Witness A, 307. Ms. Jouhari began to have “awful headaches,” neck and knee pain, stomach problems, and anxiety that she attributed to the stress that the website caused her and her daughter. Tr. Jouhari, 174-5. She sought and received medical treatment for her pain and was treated with muscle relaxants and anxiety medication. Tr. Jouhari, 175. From March 1998 until the time of the hearing, Ms. Jouhari has had continuous headaches, for which she consumes large quantities of Tylenol. Tr. Horton, 59; Jouhari, 174.

42. After the appearance of the website, her friends and colleagues described Ms. Jouhari as cautious, anxious, worried, upset, and preoccupied. She was constantly bothered by stomach problems and knee pain. McCracken, 331-3; Witness B, 353.

43. Ms. Jouhari felt awful about leaving her work at the Reading-Berks Human Relations Council. She had been instrumental in building up the HRC from a part-time landlord/tenant program to a full-service Fair Housing agency. She recently had written a grant for federal money that would enable the program to greatly expand. She had been instrumental in the creation of a hate-crimes task force whose objective was to increase housing opportunities for minorities in the county. Moving from Reading “was leaving everything [she] worked for.” Tr. Jouhari, 179-180.

44. Ms. Jouhari had good relationships with co-workers at the HRC and with her peers in the community. She also had developed a good working relationship with the court personnel with whom she dealt. Her work was her dream, what she wanted to do. Ms. Jouhari’s colleagues felt that there was a void in the civil-rights community after Ms. Jouhari left, a void that the HRC has been unable to fill. Tr. Witness A, 310; McCracken, 333.

45. Pilar Danielle Horton was an energetic, adventurous, articulate, and

popular high school student in Reading. She was active in student government, the international club, dramatic productions, and plays. Friends and colleagues of Ms. Jouhari described Ms. Horton as happy, very active, always smiling, adventurous, well-spoken, and well-liked. Tr. McCracken, 330; Witness G, 386-387; Witness B, 356; Tr. Witness K, 415. She played volleyball and ran track. C. P. Ex. 1. Occasionally, she attended parties hosted by friends at their homes. Beginning in July 1998, she also worked at Giant Food Stores as a floral clerk. Tr. Horton, 34; C. P. Ex. 2.

46. Two or three times a week Ms. Horton was involved in activities at her church and its youth group. Tr. Horton, 41. She was a “social butterfly” and a leader who encouraged others to attend events that had been planned by the youth pastor at the church. Tr. Witness I, 408-409.

47. Ms. Horton had planned to become an athletic trainer, and she had hoped to study kinesiology at Pennsylvania State University, where she also had planned to get certificates in athletic training and teaching. Tr. Horton, 27; Jouhari, 217. For two years, she devoted approximately 15 hours a week to work as a student athletic trainer. She attended athletic events with the school’s athletic trainer, assisting him with the equipment and taping the athletes. Tr. Witness J, 419. She was a responsible, committed member of the school volleyball team. Tr. Witness L, 423.

48. Because of her significant involvement in and contributions to her school community, Ms. Horton expected to enjoy the perquisites usually afforded to popular students in their senior year of high school, including the high probability that she would be nominated to the Homecoming Court and receive senior recognition for her athletic

participation and other activities. Tr. Horton, 29-30. The senior class traditionally planned class trips, a prom, a recognition ceremony, and sports banquets. Tr. Witness H, 392-393.

49. For a year and a half, Ms. Horton was involved in a committed, romantic relationship that culminated in her engagement two weeks before the threats appeared on the ALPHA HQ website. She and her fiancé worked together, had mutual friends, ate meals together, celebrated holidays together, had their wedding planned down to the flowers and guest list, and generally shared their lives with each other. Tr. Horton, 38-40.

50. Prior to her knowledge of the ALPHA HQ website, Ms. Horton’s

relationship with her mother was “better... than most teenage girls and their moms.” Tr. Horton, 45. They talked openly about anything and Ms. Jouhari always knew where her daughter was. They were always available for each other. Tr. Horton, 45. They worked as a team, and Ms. Horton was involved in many of the decisions that affected them as a family. Tr. Horton, 52-53. Ms. Jouhari described her daughter as a “great kid” who never had any problems with drugs or the police. Tr. Jouhari, 183.

51. After the ALPHA HQ website aired Ms. Horton became serious, quiet, withdrawn, and reclusive. She was very apprehensive on the way home from school. Tr. Witness J, 420. Tr. Witness I, 411.

52. During the four-month volleyball season, Ms. Horton played or practiced with the team three hours a day, five days a week. In the fall of 1998, during her third season on the team, her coach noted that “something was definitely wrong,” and that her playing had not improved, even with constant practice. He described her as distracted, withdrawn, quiet, moody, and lacking in enthusiasm. Tr. Witness L, 424.

53. Eventually, Ms. Horton cried in class as she told her friends that she and her mother would have to leave Reading because of “the website and... some letters that were hatefully worded.” Tr. Witness H, 391. She also told her volleyball coach that because of the threats to her mother, they would have to move across the country. Twice he had to take her aside when she became unnerved and broke into tears. Tr. Witness L, 425.

54. Although she attended school regularly, Ms. Horton missed 8.5 days of school during the first quarter of her junior year in Reading. C. P. Ex. 1. Approximately five absences during that quarter were attributable to the reconnaissance trip to Seattle in preparation for their move. Tr. Horton, 33. At the end of that school quarter, she stopped attending classes altogether, because she knew she would be leaving Pennsylvania in the middle of the second quarter. Although she continued to work at her job as a floral clerk at Giant Food Stores and visited occasionally with friends, she began to experience physical problems, including “belly aches” and symptoms of depression. Tr. Horton, 61; Tr. Jouhari, 175. Ms. Horton began to feel as if she no longer had any say or control over the course of her own life. Tr. Horton, 62.

### The Move to Washington State

55. In October 1998, the Complainants moved from their apartment in

Reading into a friend's house, where they stayed until they left by car for Washington State on November 27, 1998. Tr. Horton, 60. Ms. Horton accompanied her mother to Washington State because she "was 16 and I didn't have anywhere else to live and my mom told me to get in the car and leave, so I left. But I know that she told me that she left because she felt that we were unsafe living where we were." Tr. Horton, 59. They took with them only what fit in their small car, primarily clothes and a few personal possessions, including pictures, vases, and cups. Tr. Horton, 60-61; Jouhari, 178-179. They left some items with a friend of Ms. Jouhari, who had helped them move from their apartment.

56. On the day Ms. Jouhari and her daughter left Pennsylvania, they gathered with a few friends, including Ms. Horton's fiancé, at a local diner where, for more than two hours, they lingered over coffee and talked. Ms. Horton then joined her fiancé in his car where they held hands, looked at each other, and made plans for her return to Reading as soon as school was out. Tr. Horton, 63. As she and her mother pulled away in their car, Ms. Horton kept waving to her fiancé, saying goodbye and that she loved him, knowing that he could not hear her. Ms. Horton was inconsolable and devastated by the decision to leave. Tr. Jouhari, 184. She was angry at her mother and despondent over leaving her fiancé. They rode in virtual silence through six days of cross-country travel to their Silverdale, Washington, destination. Ms. Horton often slept while her mother drove. Tr. Horton, 65.

57. On December 2, 1998, the Complainants arrived in Silverdale, Washington, where Ms. Jouhari had leased an apartment. Tr. Jouhari, 188. They slept on the floor until they were able to purchase air mattresses. They bought a card table, two chairs, and a used television set. Because their funds were so meager, the Northwest Coalition Against Malicious Harassment donated other furniture to them. Tr. Jouhari, 189, 193-194; C. P. Ex. 11. Taking boxes that she received as care packages from friends, Ms. Horton decorated them and used them as furnishings. Tr. Horton, 68.

58. Ms. Jouhari tried to remain as anonymous as she could. Following advice from the FBI, she curtailed her travel, and she did not open a bank account, get a driver's license, register to vote, or put her name on any document. She paid all her bills with traveler's checks or money orders, and she relied on check cashing services to cash her child support checks. However, she did have to use her name to rent an apartment. Tr. Jouhari, 189-191. She obtained an unlisted telephone number, a caller identification system, and a call block feature.

59. After a two-week delay due to self-diagnosed depression, Ms. Horton

enrolled in Central Kitsap High School in Silverdale, Washington. She began classes just two weeks before the Christmas break. She had lost so much weight because of her depression that her regular clothes did not fit. Accordingly, she wore only sweat pants and tee shirts. Friends later told her that she had looked like a “bum.” Tr. Horton, 68, 70-71. She found the transition to a new school, with an open campus and diverse student body, difficult. Tr. Horton, 69. She had come from a Pennsylvania school that had approximately nine minority students. Her new school was racially and ethnically diverse, with other students of mixed racial and cultural heritage, and others who spoke unfamiliar languages. Tr. Horton, 69. Although she welcomed the opportunity to interact with this diverse student body, she was apprehensive because of her status as a stranger and because of her clothes. She felt isolated since she had no friends, and was not involved in any extra-curricular activities that would introduce her to other students. Her transition was further complicated by the fact that not all of her credits transferred from her old school due to different course requirements and incompatible offerings between the two schools. Tr. Horton, 72-73.

60. Soon after they had arrived in Silverdale, the Christmas holidays approached. Complainants had no family other than each other; their friends back in Reading had become their family. On Christmas Eve, Ms. Jouhari became angry with Ms. Horton over the length and cost of telephone calls back to Pennsylvania. Ms. Jouhari also was upset because she could not afford Christmas cards and stamps. She found herself yelling at her daughter. On one occasion Ms. Horton yelled back that “I hate this place, I hate you, and I want to go away; I want to go back; I want to go see my friends.” Tr. Jouhari, 196-197. Alone in their Silverdale apartment, they celebrated Christmas with a meal of Ramen Noodles, without friends, presents, or decorations. Tr. Horton, 78.

61. Initially, Ms. Jouhari felt safe in Silverdale, but then the phone calls began again. Tr. Jouhari, 196. Within a month of arriving in Silverdale, Ms. Jouhari and Ms. Horton began to receive the same kind of harassing and intimidating phone calls they had received in Pennsylvania. The caller would hang up, stay on the line without speaking, or play “weird music.” Tr. Jouhari, 195-6; Witness G, 379. The caller identification service was of no assistance. Most calls were identified only as “unavailable” or “anonymous.” Tr. Jouhari, 195.

62. In January 1999, Ms. Horton and her fiancé broke their engagement and ended their relationship. Tr. Horton, 79. She had no job, activities, club meetings, practices, friends to visit, or money to go to a movie. Tr. Horton, 80. Her relationship with her mother continued to be strained since they were both depressed and did not communicate with each other as they had in Pennsylvania.

The strain was particularly difficult for Ms. Horton because she no longer had the support system of friends and teachers that she had in Reading. Tr. Horton, 83-84. Until March 1999, she was depressed and not eating or sleeping well. Beginning in March, her life and her emotional state improved somewhat when she joined the track team, where she made close friends and “had something to do every day.” Tr. Horton, 80.

63. While they lived in Silverdale, Complainants had little money. Concerned that she might be tracked down if she revealed her name on an employment application, Ms. Jouhari was afraid to apply for a job. She was able to keep her personal information confidential by taking only low-paying jobs. Tr. Jouhari, 189-190, 207-210; Witness F, 360. Complainants subsisted on child support until January 1999, when Ms. Jouhari began receiving unemployment compensation in the amount of \$264.00 weekly for a period of six months. Tr. Jouhari, 197-198, C. P. Ex. 12. However, they had no health insurance, the need for which became manifest when Ms. Jouhari was rushed to the hospital with severe stomach pains. She was diagnosed as suffering with diverticulitis and was hospitalized for a week. Tr. Jouhari, 199. When she left the hospital, she had no money to buy the medications prescribed for her or to obtain the follow-up treatment that was recommended. Eventually the unemployment compensation ran out, greatly reducing Complainants’ income and increasing their financial distress. Tr. Jouhari, 198, 203-204.

64. In addition to receiving harassing phone calls, Complainants observed a van circling their apartment for hours at a time. In May 1999, they were awakened by pounding on their door in the middle of the night. When Ms. Horton asked who was there, no one replied from the other side of the door, nor could she see anyone through the peep-hole. A short time later, the banging resumed, but when Ms. Horton opened the door, no one was there. Tr. Horton, 92. Because the Complainants no longer felt safe living in Silverdale, they accepted the invitation of their church pastor to stay at his house, which was an hour and a half by car from Silverdale. Tr. Horton, 91; Tr. Jouhari, 200.

65. In July 1999, Complainants moved in temporarily with their pastor and his wife, where they shared a tiny bedroom with only one bed. Tr. Horton, 94-95; Jouhari, 204; Witness F, 362-363. A friend visiting from Pennsylvania helped the Complainants move to the pastor’s house. Tr. Jouhari, 200; Witness G, 382. They stored all the furniture they had accumulated in their Silverdale apartment. Tr. Jouhari, 201. Ms. Jouhari borrowed a car to move the items, and whatever did not fit in the car, or could not be moved into storage, was left behind. Tr. Jouhari, 201.

66. The Complainants lived with their pastor and his family through September 1999. Tr. Horton, 94; Jouhari, 202. Their mail was delivered to a post-office box. Tr. Jouhari, 206; C. P. Ex. 14. Ms. Jouhari continued to apply for temporary jobs which required little personal information. She was unable to find employment until sometime in August when she managed to secure a clerical position. Tr. Horton, 96-97; Jouhari, 202-203; Witness F, 360.

67. Ms. Jouhari felt powerless because, for the first time since she was 16 years old, she was not living in her own home. Tr. Jouhari, 203. When they moved in with the pastor, she was still frightened, ill, and unemployed. Ms. Jouhari went to the FBI and some local elected officials for help, but to no avail. She also was concerned about getting her daughter back into school. Frustrated and generally depressed, she became focused on her predicament and her inability to control her life. Tr. Witness F, 361. Her pastor described her condition as follows:

We would come home frequently and the lights would be out and the heat would be off and [Ms. Jouhari] would be sitting in the dark and in the cold, where she was when we left that morning...Now and then moping, just generally unhappy, would now and then express the desire just to disappear and would say things like "I'm going crazy, nobody believes me" and then communicating on the subject daily. It was an absorbing, obsessive focus and occupation – preoccupation.

Tr. Witness F, 362.

68. While they were living at the pastor's house, Complainants' relationship with each other deteriorated. They were under constant stress, with no relief or prospect of relief in sight. Both Ms. Jouhari and Ms. Horton were "cranky" and fought constantly, once even to the point of an unprecedented physical confrontation. Tr. Jouhari, 205. Tr. Witness F, 363-364. Toward the end of their four-month stay at the pastor's house, Complainants attempted to rent an apartment using the name of Ms. Jouhari's friend. Tr. Horton, 96-97; Jouhari, 203-204.

69. Ms. Jouhari and Ms. Horton left their pastor's house in September 1999 and moved into a one-bedroom apartment in Kent, Washington. Tr. Jouhari, 202, 210. The apartment was very small and squalid, but they were offered a month-to-month lease with no questions asked. Tr. Horton, 100-101. They moved what few belongings they had in the pastor's house and the storage bin in Silverdale. Tr. Jouhari, 211. Ms. Jouhari slept on the couch in

the living room; Ms. Horton slept in the bedroom. Tr. Jouhari, 212.

70. Ms. Jouhari arranged for telephone service in Kent, putting it in the name of her friend, Witness G, in the hope that the phone calls would not begin again. Tr. 212-213. However, within two to three weeks the harassing telephone calls began again, up to 20 a day. Those calls continued until the day they left that apartment in February 2000. Tr. Horton, 56, 108. On one occasion upon returning home from school, Ms. Horton discovered that the sliding glass door on the balcony of the apartment was open, clothes were strewn on the floor, and her cat remained cowered behind the washer for more than three hours. Neither she nor her mother had ever opened the sliding glass door during their tenancy. On another occasion, Complainants noticed that ceiling tiles had been removed in the hallway to their apartment, although there was no evidence of any maintenance being done. That night, at about 11:30 p.m., Ms. Horton heard noises above the apartment, which sounded like someone was crawling above the ceiling. Frightened, she got a kitchen knife and returned to bed, sleeping with it all night. Tr. Horton, 108, 110-111; Jouhari, 213-214.

71. In September 1999, several weeks after school began, Ms. Horton enrolled in Kent Meridian High School, her third high school. Tr. Horton, 102. Again, because of different local curriculum standards, not all her credits transferred, and she had to repeat certain classes and take new required courses. Tr. Horton, 103. Because of her late enrollment, she was ineligible to play volleyball in her final year of high school. Tr. Horton, 102. Her anger and general disinterest resurfaced. She had not unpacked after the move to the pastor's house, and she did not bother to unpack after moving to Kent. Tr. Jouhari, 215-216. Again, she had to make new friends and learn her way around a new campus. This time she was driven to engage in behavior that was not normal for her - she sought intimate relationships that placed her at physical and emotional risk. Through those intimate relationships, she sought some sense of emotional and physical security. *Sealed testimony* Tr. Horton, 123-125.

72. Between September 10, 1999, and February 1, 2000, Ms. Horton was absent from school on 33 days. C.P. Ex. 4. She also became very ill in December and did not return to school until the end of January. Tr. Horton, 106-107. Ms. Horton planned to finish her course work independently in order to graduate. Tr. Horton, 107.

73. When her daughter became ill in December, Ms. Jouhari took her to

the hospital emergency room and was told that her daughter was very ill with the flu, but also that she was pregnant. The news of her daughter's pregnancy was devastating to Ms. Jouhari. In Reading, she could provide her daughter with a positive and stable environment. In Kent, with little money and no medical insurance, she realized that she could not provide that environment for her daughter or even pay for the expenses incident to her pregnancy. In Reading, Ms. Horton's future was planned. In Kent, it was uncertain. Tr. Jouhari, 217.

74. Ms. Jouhari worked for a temporary agency near Kent where she earned \$5,232.00 from November 1999 to February 2000. Tr. Jouhari, 209, C. P. Ex. 15. She was about to be hired as a permanent employee with benefits. However, in February Ms. Jouhari received a phone call from David Goldman of HateWatch who described another serious threat of unknown origin on the Internet directed at Ms. Jouhari and Ms. Horton. Tr. Jouhari, 219. It was also at this time that Ms. Horton first learned that she personally was targeted on the ALPHA HQ website. She took great offense to the description of her as a "mongrel." Charge ¶ 11; Tr. Horton, 48-50. Soon after hearing from Mr. Goldman, Ms. Jouhari contacted the FBI. After considering the harassing phone calls, the break-in, the reference to Ms. Horton on the website, and Ms. Horton's pregnancy, she and her daughter took the advice of the FBI to stay in a hotel room that night. They fled Kent the next day, again leaving behind furniture and other personal items. Tr. Jouhari, 209-210, 218-220.

#### Complainants' Current Status

75. At the time of the hearing, Ms. Jouhari and Ms. Horton were living temporarily with a friend, still afraid to use personal identifying information to lease an apartment. Tr. Jouhari, 220-221. Ms. Jouhari continues to be apprehensive because "we've been found every place else." Tr. Jouhari, 221.

76. Once an active fair housing advocate with plans to attain a law degree, Ms. Jouhari is "not even sure how much [she] believe[s] in the law anymore." She stated:

The career that I'm really good at doing is over, I think, if I want to end this madness, I don't have a home. . . . I don't see the end of this. . . . If I want any peace, I'm going to have to change my name and let everything I ever worked for, my education, my work, my awards, throw it all down the drain.

Tr. Jouhari, 224. Although Ms. Jouhari remains dedicated to fair housing work, she is afraid to continue work in that field for fear of the possible

consequences engendered by the ALPHA HQ website. Once comfortable and confident in her relationship with her daughter, she now questions how good a mother she has been for her daughter. Tr. Jouhari, 223. Once confident in her future, she has lost her ability to plan for the future because there is no stability in her life. Tr. Jouhari, 222.

77. Ms. Horton's life is currently stagnant. She is unemployed, does not know how to drive a car, and has no social life. Tr. Horton, 113. Her fear of public exposure and resulting harassment has prevented her from applying for a job or a driver's license, taking college placement examinations, and applying to college. Tr. Horton, 113, 115, 118. The parents of her best friend from Reading forbid their daughter to speak to Ms. Horton for fear of harassment similar to that endured by Ms. Horton and her mother. Tr. Horton, 113-114. She sleeps up to 16 hours a day, forces herself to eat to feed her baby, has constant headaches, is under continuous stress, and remains hyper-vigilant. Tr. Horton, 116. She has been diagnosed by a forensic psychologist as suffering from severe Post-Traumatic Stress Disorder with Delayed Onset. *Sealed testimony*, Tr. Jenkins-Monroe, 449, 513.

### **Discussion and Subsidiary Findings**

By Default Judgment entered on February 29, 2000, Respondents Wilson and ALPHA HQ have admitted all matters of fact alleged against them in the Charge of Discrimination, and, accordingly, they have been found to have violated Section 818 of the Fair Housing Act, 42 U.S.C. § 3617, and the regulations codified at 24 C.F.R. § 100.400(c) (1999). Specifically, by making public threats on the Internet against Complainants, Respondents have intimidated and interfered with Ms. Jouhari's employment as a Fair-Housing Specialist with the Reading-Berks Human Relations Council. In addition, by publishing those threats on the Internet, Respondents have set in motion a pattern of ongoing harassment of Complainants because of race and color. As a result of Respondents' actions, Complainants have suffered emotional distress, economic loss, and loss of housing, educational, and employment opportunities as discussed below.

Wilson instigated a campaign against Complainants in the white supremacists' so-called Racial Holy War, while attempting to give himself and ALPHA HQ deniability for the genesis and course of the campaign. Through the ALPHA HQ website, Wilson targeted Complainants and incited nameless

others, who were part of or sympathetic to the goals of the white supremacist movement, to harass, intimidate, and threaten Complainants through a relentless campaign of domestic terrorism that drove them from coast to coast and back again.

Complainants' exile from Reading, Pennsylvania, caused them deep psychic wounds from which they may never recover. Certainly, the scars from those wounds will remain indelibly etched in their hearts and minds. Exile from one's home has been described as:

a spiritual as well as a physical dislocation. The world of exile is wholly unfamiliar and, therefore, without meaning. A violent uprooting, which takes away all normal props, breaks up our world, snatches us forever from places that are saturated in memories crucial to our identity, and plunges us permanently in an alien environment, can make us feel that our very existence has been jeopardized. When exile is also associated with human cruelty, it raises urgent questions about the problem of evil in a world supposedly created by a just and benevolent God.<sup>3</sup>

The uncontested evidence demonstrates that Wilson intended the website to incite interference, by violent or other means, with Ms. Jouhari's statutory right to aid and encourage others in the exercise and enjoyment of their rights granted or protected under the Fair Housing Act. Ms. Jouhari's photograph identifying her as a "race traitor," the caption warning that she should beware of being hung from the nearest tree or lamp post, and the graphic image of her office bursting into flames were all on the second page of the website. Anyone visiting the website had to go through that second page to access the remainder of the site. He described Ms. Jouhari's biracial daughter as a "mongrel" and added a recipe for a bomb beneath the photograph of Ms. Jouhari's office. The so-called "disclaimer," stating that ALPHA HQ "did not wish to imply" that Complainants be "harassed or injured in any way," and that the "disclaimer" was made "for legal reasons," was clearly disingenuous. The website was nothing less than a transparent call to action. When the features of the website are taken together with Wilson's statement to the FBI that he would be comfortable with harassment against Ms. Jouhari by anyone in his organization or in the white supremacist movement, it is clear that the actions taken against Complainants over the two-year period after the website was published were the intended and foreseeable result of Wilson's

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<sup>3</sup>Karen Armstrong, *The Battle for God* 8 (2000).

creation and publication of the ALPHA HQ website.

By publishing the ALPHA HQ website containing photographs of Ms. Jouhari and of her office bursting into flames, threats against her life, and a reference to her daughter as a “mongrel,” Ryan Wilson intentionally inflicted emotional distress on both Ms. Jouhari and her daughter. Wilsons conduct falls within what the *Restatement (Second) of Torts* describes as “Outrageous Conduct Causing Severe Emotional Distress”:

(1) One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.

(2) Where such conduct is directed at a third person, the actor is subject to liability if he intentionally or recklessly causes severe emotional distress

(a) to a member of such person’s immediate family who is present at the time, whether or not such distress results in bodily harm.

*Restatement (Second) of Torts* § 46 (1965).

The Comments to the *Restatement* describe extreme and outrageous conduct, *inter alia*, as follows:

Liability has been found only where the conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community. Generally, the case is one in which the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, “Outrageous!”

*Restatement (Second) of Torts* § 46 cmt. d (1965). Clearly, this is such a case.

When he published the ALPHA HQ website, Wilson created a situation that put Complainants in danger of harassment and serious bodily harm. Accordingly, even if the threatening and harassing actions against Complainants were taken by third parties, Wilson and ALPHA HQ would not be relieved of liability for those actions because they were the foreseeable results of Wilson’s openly targeting Complainants as “race traitors.” The Third Circuit has interpreted the concept of “reasonable foreseeability” broadly. In *Leposki*

*v. Railway Express Agency*, 297 F. 2d 849 (3<sup>rd</sup> Cir. 1962), the court overturned a jury verdict in favor of the defendant in a negligence action, ruling that the District Court erred when it instructed the jury to consider the facts prospectively. *Id.* at 851. The court stated:

In Pennsylvania, an intervening negligent act by a third person does not, in all cases, constitute a superseding cause relieving an antecedent wrongdoer from liability for negligently creating a dangerous condition. The act is superseding only if it was so extraordinary as not to have been reasonably foreseeable. *Stark v. Lehigh Foundries, Inc.*, 388 Pa. 1, 130 A.2d 123 (1957); *Smith v. Cohen*, 116 Pa.Super. 395, 176 A. 869 (1935). The extraordinary nature of the intervening act is, however, determined by looking back from the harm or injury and tracing the sequence of events by which it was produced, Restatement Torts § 440, comment b (1934), cited with approval in *Diehl v. Fidelity-Philadelphia Trust Co.*, 159 Pa.Super. 513, 49 A.2d 190 (1946); Restatement, Torts § 442 comment b (1948 Supp.); Restatement, Torts, Pa. Ann. § 442(b), i.e., the events are viewed retrospectively and not prospectively.

*Id.* at 850. The court concluded that the defendant could not avoid liability for the consequences of its actions, particularly where “the jury could very well find that the intervening act was merely a reaction to a dangerous situation that defendant itself created.” *Id.* at 851.

In this case, considering (1) the specific targeting of Complainants on the website by Wilson, a well-known leader of the white supremacist movement; (2) the website’s intended constituency of white supremacists; (3) Wilson’s use of “leaderless resistance” as an integral feature of his white supremacist activity; (4) the threatening and violent nature of the website; (5) the nature and timing of the acts of intimidation and harassment directed against Complainants, which followed the publication of the threats on the website; and (6) the tendency of certain members of the white supremacist movement to take violent and/or harassing action against a targeted person, I find that the acts of intimidation and harassment that were directed against Complainants constitute outrageous conduct and were the intended and foreseeable results of Wilson’s and ALPHA HQ’s discriminatory acts in making and publishing the threats on the ALPHA HQ website. Accordingly, Respondents are liable for the consequential damages suffered by Complainants as a result of those acts.

## DAMAGES

Section 812(g)(3) of the Act provides that upon a finding that a respondent has violated the Act, an administrative law judge shall order “such relief as may be appropriate, which may include damages suffered by the aggrieved person.” (42 U.S.C. §3612(g)(3)). Actual damages in housing discrimination cases may include damages for intangible injuries such as embarrassment, humiliation, and emotional distress caused by the discrimination.<sup>4</sup> Damages for emotional distress may be based on inferences drawn from the circumstances of the case, as well as on testimonial proof.<sup>5</sup> Because emotional injuries are by nature qualitative and difficult to quantify, courts have awarded damages for emotional harm without requiring proof of the actual dollar value of the injury.<sup>6</sup> The amount awarded should make the victim whole.<sup>7</sup>

## EMOTIONAL DISTRESS DAMAGES

For a period of more than two years, Complainants have suffered through a relentless reign of terror, ignited by the ALPHA HQ website. It was Wilson’s intention when he created the website that it serve as an open invitation to any white supremacist sympathizer to wreak havoc by any means against Bonnie Jouhari and her daughter. In creating and publishing that website, Ryan Wilson flagrantly instigated acts that caused

continuous, severe, and irreparable emotional pain and suffering to both Ms.

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<sup>4</sup>See, e.g., *HUD v. Blackwell*, 2 Fair Housing-Fair Lending(P-H) ¶125,001 (hereinafter *Blackwell I*) at 25,011; *HUD v. Murphy*, Fair Housing-Fair Lending (P-H) ¶125,002 at 25,055 (HUDALJ July 13, 1990); See also *Smith v. Anchor Bldg. Corp.*, 536 F.2d 231 (8th Cir. 1976); *Steele v. Title Realty Co.*, 478 F.2d 380, 384 (10th Cir. 1973); *McNeil v. P N & S. Inc.*, 372 F. Supp. 658 (N.D. Ga. 1973).

<sup>5</sup>*Blackwell II*, 908 F.2d 864, 872 (11th Cir. 1990); *Murphy* at 25,055; See also *Marable v. Walker*, 704 F.2d 1219, 1220 (11th Cir. 1983); *Gore v. Turner*, 563 F.2d 159, 164 (5th Cir. 1977).

<sup>6</sup>See, e.g., *Block v. R.H. Macy & Co.*, 712 F.2d 1241, 1245 (8th Cir. 1983); *Steele v. Title Realty Co.*, 478 F.2d at 384; *Blackwell I* at 25,011. See also *Blackwell II*, 908 F.2d at 872-73 (recovery for distress is not barred because amount of damages is incapable of exact measure).

<sup>7</sup>See *Murphy* at 25,056; *Blackwell I* at 25,013.

Jouhari and Ms. Horton.<sup>8</sup>

Bonnie Jouhari

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<sup>8</sup>Complainants are not the only ones involved in this proceeding who have been intimidated by Respondents. The Charging Party sought permission to omit the addresses and telephone numbers of their expert witnesses and those lay witnesses the Charging Party believed were known to Respondents. The Charging Party also requested that the hearing be conducted in a secure building where all incoming persons must proceed through metal detectors and x-ray systems, and that the hearing be closed to all persons without press credentials. For good cause shown, I granted both requests.

The undisputed facts show that Ms. Jouhari was a dedicated and successful Fair Housing advocate and activist in the Reading, Pennsylvania, area. She was well known in the civil-rights community, on the local, state, and national levels, as a leader and an innovator. She was successful in her job, financially secure, and confident in her future career aspirations. She was a well-respected member of her community and church, and she enjoyed the company of numerous friends and colleagues. She was seen as relaxed, happy, outgoing, unflappable, and fun-loving. She had a warm, loving relationship with her daughter, in whose academic and extra-curricular successes she reveled and whose future she viewed with great expectation and optimism. That stable, serene life ended with the publication of the ALPHA HQ website.

Because she was familiar with white supremacist ideology, terminology, and activities, Ms. Jouhari was terrified by the ALPHA HQ website and its threats against her and her daughter. Once she was branded as a “race traitor,” she knew that the threat of a noose or a firebomb was not to be taken lightly. If she had any doubts, they were dispelled by the incessant harassing phone calls and her continuous surveillance by a known Ku Klux Klansman. She notified and sought help from every available law enforcement agency. Still fearful for their safety, she began to carry a handgun and imposed limits on her daughter’s activities outside their home. Finally, frustrated by the inability of law enforcement agencies to protect them, she made the wrenching decision to leave her friends, her job, and the only home her daughter ever knew, and to go into hiding. Ms. Jouhari recounted her cross-country drive with her daughter as follows:

[S]he was really mad at me. She – I think she – she knew what was going on and she knew everything that was happening, but to her, the cost of my taking her away was so great that – her school years, her last years of school were ruined, her dream of going to the senior prom and graduating with her class, with the kids she went to school with since she was real little and her boyfriend and all those people being around to share, that was gone. . . . So I understood her anger, but it still hurt. We drove about 2,000 miles until she would say anything to me.

Living in exile brought her no relief. She was far away from her friends, and contact with them was restricted. Her career was over. When she was able to find work, the pay was meager and the benefits nonexistent. Housing was cramped and substandard. Furniture was sparse; money was spare. Her relationship with her daughter was terribly strained. She was hounded by feelings of guilt for forcing her daughter to leave everything she loved behind in Pennsylvania. Telephone harassment continued and she could not escape

detection and surveillance wherever she moved in Washington State. She described her life on the run in stark terms:

I felt like I'd lost total control of my life, we had like nothing left. My career was down the tubes, we had no money. I didn't know how to apply to a decent job, it was clear I couldn't work in my career because of this situation, I would only be setting myself up for sure to be found again, so things seemed pretty bleak.

Tr. Jouhari, 204.

For more than two years from the publication of the website, Ms. Jouhari has suffered from continuous headaches and anxiety. She has been preoccupied, demoralized, and depressed. She has difficulty sleeping and is under constant stress, worrying both about the present and the future. Ms. Jouhari has suffered as a parent, watching her biracial daughter struggle for the first time with racial prejudice, and feeling helpless because she is unable to provide her with needed support. She does not know how she is going to protect and provide for herself, her daughter, or her expected grandchild in the future, and she is greatly concerned that if something were to happen to her, there would be no one to support Ms. Horton and her child. She feels personally responsible for the anguish the ALPHA HQ website has caused her daughter, the damage it has caused to their relationship, and the horrendous affect it has had on their lives . She is devastated by her inability to continue working as a fair housing advocate and to fulfill her career aspirations. She sees no predictable end to the fear and insecurity she has been experiencing since the website appeared.

The Charging Party seeks, and Respondents do not contest, an award of \$250,000.00 to compensate Ms. Jouhari for the emotional distress she has suffered and continues to suffer. Considering that for more than two years Ms. Jouhari has been placed in constant fear for her life and for the life of her daughter, and that she will continue to live with the fear, insecurity and unrest created by Respondents' conduct, I find that the evidence clearly justifies an award in that amount.

### Pilar Danielle Horton

Pilar Danielle Horton was a happy, energetic, active, and popular student in Reading, Pennsylvania. She had a full and rewarding life, with detailed

plans for a bright future. After the ALPHA HQ website appeared, her life changed forever. She became distracted, lethargic, reclusive, and depressed. Instead of attending athletic events, proms, and banquets - instead of studying for college entrance examinations and preparing applications for college admissions - she was painfully separated from her support system of friends, teachers, coaches, and clergy, and she was denied the opportunity to complete her final year of high school in Pennsylvania. Instead, she found herself on the run in Washington State where she feared for her life and that of her mother on a daily basis, lived uncomfortably in three locations, attended two high schools with different course requirements, enrolled in school too late to become part of an athletic team, became pregnant, and lost all hope for the future she once envisioned. She lost the security of the close relationship she once had with her mother, she lost the last years of her adolescence, and she lost her innocence. Within three weeks of the move to Washington State, she lost 22 pounds and her self-respect.

Ms. Horton was examined by Dr. Valata Jenkins-Monroe, a clinical and forensic psychologist. Dr. Jenkins-Monroe, whose testimony was taken under seal, conducted a number of psychological tests on Ms. Horton. As a result of her extensive examination of Ms. Horton, Dr. Jenkins-Monroe concluded that Ms. Horton was suffering from severe Post-Traumatic Stress Disorder with Delayed Onset (PTSD), triggered by exposure to the threats on the ALPHA HQ website and the events that flowed from those threats. Although the diagnosis of PTSD used to be reserved for those individuals who had experienced combat, the current diagnosis includes a person, such as Ms. Horton, who has experienced, witnessed, or been confronted with actual or threatened death or serious injury, or threat to their own physical integrity or to the physical integrity of someone significant to that person.

To be diagnosed with PTSD, the person must have responded to the threat with intense helplessness, intense fear, and intense horror. The trauma must also be persistently reexperienced outside the person's ability to control it. The reexperience may occur through recurrent thoughts, feelings, and ideas about the experience. The trauma may be reexperienced through dreams, or it may actually be relived and acted out. A person diagnosed with PTSD may experience psychological distress and/or a physiological reaction upon the occurrence of internal or external cues that are similar to, related to, or associated with the particular trauma. Such a person avoids things that are associated with the trauma and experiences a numbing of general responses - a distancing from the event or the location of events, and a detachment or estrangement from others. A person diagnosed with PTSD also exhibits

symptoms manifested by increased “anxious arousal,” i.e., difficulty in sleep, irritability, outbursts of anger, difficulty in concentration, and/or an exaggerated startle response. Such a person is always on guard, or hyper-vigilant, always checking out the environment, and making sure to anticipate what may or may not occur. Dr. Jenkins-Monroe found that Ms. Horton’s reactions to the threats against her mother and her, and the reference to Ms. Horton as a “mongrel” were consistent with the diagnosis of PTSD.

Dr. Jenkins-Monroe’s examination of Ms. Horton found that her “anxious arousal” criterion is one-and-a-half times above the normal baseline. She manifests this increase in anxious arousal by moderate to severe depression and outbursts of anger and irritability. Dr. Jenkins-Monroe also found that Ms. Horton engages in a great amount of tension reduction behavior that is manifested in an “alarming” amount of dysfunctional acting out, followed by feelings of regret for that behavior, and impaired ways of how she thinks about herself. Some of this acting out is designed to produce immediate gratification and to numb responses to, and distance herself from the trauma. The support systems that Ms. Horton had prior to the trauma are no longer there, and therefore, she is now more vulnerable, less able to deal with the trauma, and, consequently, more irritable. To avoid re-experiencing the trauma, Ms. Horton engages in dissociative reflection, an unconscious escape to another place in order to reduce or manage behaviors. Dr. Jenkins-Monroe found that Ms. Horton’s impaired self-reference reflects guilt, remorse, and “beating up on self”:

You don’t have to criticize Ms. Horton, she’s criticizing herself. She feels badly about it. She feels depressed about it and at the same time, some of the other profiles will tell you that she’s also feeling very helpless about it as well.

Dr. Jenkins-Monroe also concluded that while Ms. Horton’s present focus on preparation and planning for her baby is a positive method of stress reduction, she is at risk for heightened post-partum depression because she is focusing on the expectation of the baby to the exclusion of her own anxieties and stresses. That concern is heightened by Ms. Horton’s total lack of a social support system. Once a very much socially involved individual who had strong connections and relationships with authority figures at school, in church, and in the home, Ms. Horton now lacks any trust for the people who are involved in her life. She is beginning to realize the instability of even long-term relationships. No longer independent, financially or otherwise, she is now dependent, has to ask for direction, needs monitoring, and has more restraints placed on her. What relationships she was able to make in Washington State were superficial

- acquired by exploring, acting out, and trying to connect. Dr. Jenkins-Monroe found that Ms. Horton has experienced a radical change from having a support system to cope with the stressors she had as a normal adolescent in Reading to her present lack of any support system to

help her cope with the survival stressors she confronts as a result of the trauma from the ALPHA HQ website:

The stressors changed drastically when she moved away. We're talking about survival stressors now being hallmark...where am I going to live, what am I going to eat, what am I going to wear, who will be there for me, is my mom going to be okay, am I going to be okay. Those are different kinds of stressors that she hadn't experienced.

Pregnancy has also forced Ms. Horton to delay or stunt her own aspirations for higher education and a career. Dr. Jenkins-Monroe found that Ms. Horton's aspirations matched her potential for achieving them. Ms. Horton had friends in Reading who were a year or two older and who were going to college and starting careers. She saw herself doing the same things. She is now on a different road and must chart a different course. Her world is smaller, full of fear and self-doubt, and she is no longer in control of her life.

Moving from her school environment in Pennsylvania, which was predominantly populated by white students, to Washington State, where the environment was multi-ethnic, was an additional stressor for Ms. Horton. Dr. Jenkins-Monroe explained that where there is only one group, a person has to determine how to fit into that group; but where there is a whole cluster of various ethnicities, a biracial child has to figure out to which group or groups she belongs. Dr. Jenkins-Monroe also found that the reference on the website to Ms. Horton as a "mongrel" was a major shock for Ms. Horton, who experienced the reference as particularly degrading and humiliating because of the highly public nature of the website.

Ms. Horton also lost part of her identity when she moved to Washington State because she missed the cutoff periods to participate in sports, and her clothing no longer fit as a result of losing significant weight. Dr. Jenkins-Monroe found these factors to be additional stressors for Ms. Horton because she could not easily meet other student athletes, and she was not comfortable introducing herself because of her appearance.

Currently, Ms. Horton must deal with stressors related to her pregnancy. She has not been able to have consistent medical follow-up and discussions

concerning the changes to her body. She has had to resort to searching for information on the Internet, a stressor in itself according to Dr. Jenkins-Monroe. In addition, Ms. Horton has had to deal with the stresses of this litigation, with its exposures, assessments, examinations, diagnoses, and questionnaires - things that are confusing to the average adult, let alone a person of her age. She also has to determine where she fits in the continuum of friendships that she has had, but which may not now be available to her.

Ms. Horton must deal with these stressors without benefit of the resources she once had. She used to have a solid core structure as a gifted student with all the potential for enhancing her cognitive resources. Her inconsistencies in schooling, with absences, course requirement changes, and different teachers, put a damper on that core structure. Dr. Jenkins-Monroe also found that Ms. Horton's self-doubts and inability to make decisions about the future have made coping more difficult for her. In addition, she has lost her mother as a key resource. Ms. Jouhari has been traumatized herself and is not as available or capable of providing the support she once did because she must cope with their everyday basic survival - where they are going to get food, shelter, and other necessities.

Because Post-Traumatic Stress Disorder is a recurring and cyclical disorder, Ms. Horton will need to learn strategies of anticipating and coping with different stressors. Because of the intensity and recurrent nature of Ms. Horton's PTSD and depression, Dr. Jenkins-Monroe recommended that Ms. Horton participate in intensive psychotherapy, twice per week for a year, and ongoing therapy for several years. After the initial intensive therapy, Dr. Jenkins-Monroe suggested that family therapy would be appropriate as well. After several years of therapy, Ms. Horton may require therapy on a periodic basis throughout her life during critical periods in her life. According to the Social Security Administration's life expectancy table, a female born in 1982, as was Ms. Horton, has a life expectancy of between 74 and 79 years. Ms. Horton therefore may expect to live for at least 56 more years with the effects of PTSD.

The Charging Party seeks, and Respondents do not contest, an award of \$750,000.00 to compensate Ms. Horton for the emotional distress she has suffered, continues to suffer, and will continue to suffer for the rest of her life. Considering that Ms. Horton has lost two years of her life that can never be replaced, and will continue to be plagued for the rest of her life by the effects of Respondents' conduct, I find that the evidence clearly justifies an award in that amount.

## TANGIBLE DAMAGES

### Relocation Expenses

In September 1998 when it became evident that they must relocate to the West Coast, Complainants flew from Reading to Seattle, Washington, at a cost of \$698.00 to assess living and employment opportunities in Washington State. In November 1998, they drove to the State of Washington, accruing hotel expenses in the amount of \$167.84 for four nights on the road. The driving distance between Reading, Pennsylvania, and Silverdale, Washington, is 2,838 miles. Using the Government rate of \$.325 per mile, published at 63 Fed. Reg. 47,438 (1998) (current from September 8, 1998, through March 31, 1999), the total reimbursable mileage cost for the trip is \$922.35. Accordingly, travel expenses from Pennsylvania to Washington total \$1,788.19.

### Compensable Expenses Living in Washington State

While she lived in Washington, Ms. Jouhari was afraid to open a checking account for fear of being located. Consequently, she paid her bills with traveler's checks and money orders for which she paid fees that amounted to \$30.07. When Ms. Horton and Ms. Jouhari moved in with their pastor, they had to use a post-office box in Silverdale at a cost of \$22.00. While living in the pastor's house, they also stored several items in Silverdale at a cost of \$59.00 per month for four months, for a total of \$236.00. When they were able to move from their pastor's home to Kent, Washington, they rented a moving truck at a cost of \$30.00. Accordingly, these compensable expenses total \$318.07.

### Lost Wages, Salaries, and Benefits

Complainants incurred significant out-of-pocket employment losses as a result of the ALPHA HQ website. Ms. Jouhari and Ms. Horton both left jobs they enjoyed and to which they were committed. Ms. Jouhari worked at Reading-Berks Human Relations Council from August 23, 1995, to November 20, 1998. When she left the HRC she was earning \$25,750.00 and received employment benefits totaling \$181.72 monthly. Had she stayed at the HRC, she would have received a 4% raise retroactive back to her anniversary date of August 17, 1998. In addition, Ms. Jouhari would have received an additional annual 4% increase in salary on August 17, 1999. Assuming a 4% increase in wages and benefits, and deducting Ms. Jouhari's unemployment compensation and wages in Washington, her total salary and benefits loss was \$25,077.38

from August 17, 1998, through March 6, 2000.

Ms. Horton worked part-time for Giant Food Stores from July 3, 1998, until she left for the West Coast on November 20, 1998. Her salary was \$6.25 per hour and she averaged thirteen hours per week. However, during holidays Ms. Horton expected to work forty-hour weeks. Based on her hourly rate multiplied by the average number of hours she worked, plus that rate multiplied by the 80 hours for the two full-time holiday weeks, Ms. Horton's annual salary was \$4,562.50. Ms. Horton was unable to work the Thanksgiving and Christmas holidays in 1998, and, as a result, lost \$500.00 in salary. Ms. Horton's total salary expectation and loss for the one year, nine week period which she and her mother lived in Washington was \$5,293.75.

#### Future Therapeutic Expenses

The costs of future medical therapy are recoverable as economic losses. See, Alan W. Heifetz and Thomas C. Heinz, "Separating the Objective, the Subjective and the Speculative: Assessing Compensatory Damages in Fair Housing Adjudications," 26 *John Marshall L. Rev.* 3, 10; see also *HUD v. Housing Authority of the City of Las Vegas*, Fair Housing-Fair Lending (Aspen) ¶125,116, 26,008 (HUDALJ Nov. 6, 1995). Because of Ms. Horton's youth at the time she became a victim of the discriminatory acts and the deeply traumatizing impact that the discrimination has had on her life, long-term psychological therapy is required for her well-being and that of her expected child.

Dr. Jenkins-Monroe testified that Ms. Horton requires substantial individual and family psychotherapy over a period of several years, and most likely throughout her life. Individual therapy, with an experienced therapist, will cost approximately \$125.00 per hour. After Ms. Horton receives individual therapy for several years, Dr. Jenkins-Monroe recommended family therapy; however, Ms. Horton may also need additional therapies prior to undergoing family therapy. The minimum recommended therapy for Ms. Horton includes one year of twice weekly individual sessions (totaling \$13,000.00 at \$125 per session), two years of weekly individual sessions (totaling \$13,000.00 at \$125 per session), and two years of twice-a-month family therapy, (totaling \$6,000.00 at \$125 per session). After the completion of three years of intensive individual therapy, Ms. Horton should have individual therapy approximately once a month through at least mid-life. Based on her life

expectancy, Ms. Horton will need an additional 324 months of therapy at \$125.00 per session (totaling \$40,500.00). The total cost of Ms. Horton's future psychological therapy is \$72,500.00.

Dr. Jenkins-Monroe recommended family counseling as part of Complainant Horton's ongoing treatment. The Charging Party also requests compensation for Ms. Jouhari to undergo individual psychotherapy to deal with the fear and hyper-vigilance she has been struggling with over the past two years as a result of the ALPHA HQ website. The Charging Party requests compensation in the amount of \$6,500.00 for one year of weekly individual therapy sessions at \$125.00 per session. That request is unopposed.

Ms. Jouhari's tangible damages total \$33,683.64. Ms. Horton's tangible damages for loss of salary and future therapeutic expenses total \$77,793.75.

## CIVIL PENALTY

To vindicate the public interest and deter future violations of law, the Act authorizes an administrative law judge to impose civil penalties upon respondents who violate the Act. 42 U.S.C. § 3612(g)(3). *See also* 24 C.F.R. § 180.671. Where, as here, a respondent has not been adjudged to have committed any prior discriminatory housing practice, a maximum penalty of \$11,000.00 may be assessed. 42 U.S.C. § 3612(g)(3)(A). *See also* 24 C.F.R. § 180.671(a)(1). A civil penalty may be assessed for each separate and distinct discriminatory housing practice that a respondent commits. 24 C.F.R. § 180.671(a). Furthermore, in a proceeding involving two or more respondents who violate the Act, separate civil penalties may be assessed against each respondent. 24 C.F.R. § 180.671(e).

Determining an appropriate civil penalty requires consideration of various factors such as the "nature and circumstances of the violation, the degree of culpability, any history of prior violations, the financial circumstances of the Respondent, the goal of deterrence, and other matters as justice may require." *HUD v. Schmid*, 3 Fair Housing-Fair Lending (Aspen) ¶ 25,139, 26,153 (HUDALJ July 15, 1999) (quoting H.R. Rep. N. 711, 100<sup>th</sup> Congr. 2d Sess. at 37 (1988); *HUD v. Johnson*, 2 Fair Housing-Fair Lending (Aspen) ¶ 25,076, 25,711

(HUDALJ Jul. 26, 1994). See also 24 C.F.R. § 180.671(c). Finally, where a respondent has committed a housing-related hate act, that fact must be taken into account in favor of imposing a maximum civil penalty when evaluating the factors used to determine the amount of the civil penalty. 24 C.F.R. § 180.671(c)(2)(I).

The Charging Party seeks a civil penalty of \$33,000.00 against Respondent Wilson for the following separate and distinct violations of the Fair Housing Act: (1) publishing on the ALPHA HQ website Ms. Jouhari's image, together with the threat against her life, and the image of her office blowing up; (2) publishing on the ALPHA HQ website a discriminatory reference to Ms. Horton; and (3) reiterating the threat against Ms. Jouhari in a televised interview with a local news reporter. The Charging Party seeks a civil penalty of \$22,000.00 against Respondent Ryan Wilson doing business as ALPHA HQ for: (1) publishing on the ALPHA HQ website Ms. Jouhari's image, together with the threat against her life, and the image of her office blowing up; and (2) publishing on the ALPHA HQ website a discriminatory reference to Ms. Horton.

Publication of the ALPHA HQ website, with its threats against the life of an active fair housing advocate, the implicit suggestion that her office should be firebombed, and the odious reference to her biracial daughter as a "mongrel," is a housing-related hate act of the first order, warranting imposition of the maximum penalty allowable. A housing-related hate act is defined as:

any act that constitutes a discriminatory housing practice under section 818 of the Fair Housing Act and which constitutes or is accompanied or characterized by actual violence, assault, bodily harm, and/or harm to property; intimidation or coercion that has such elements; or the threat or commission of any action intended to assist or be a part of any such act. [24 C.F.R. § 180.671(c)(2)(ii).]

An expert witness in this case characterized the ALPHA HQ website as equivalent to placing a burning cross on a lawn. Courts consider cross-burning, firebombing, and physical intimidation, some of the most egregious forms of human conduct. See *Johnson v. Smith*, 890 F.Supp. 726 (N.D.Ill. 1995); see also *Michigan Protection and Advocacy Service v. Babin*, 799 F.Supp. 695, 726 (E.D.Mich.1992).

In this case, the egregiousness of Respondents' conduct is amplified by the notoriety it gained through the medium of television and the Internet. With the potential of a world-wide audience, Respondents solicited countless unknown white supremacists to engage in a so-called "leaderless" campaign of

terror and intimidation against Complainants. That campaign not only had, and continues to have, its intended affect on Complainants, but it also has deprived the citizens of the Reading-Berks area of an effective fair housing advocate.

Respondents are fully culpable for their actions. Indeed, Wilson was proud of his website and boasted about the number of times it had been visited by Internet users. As a leader in the white supremacist movement, he knew that the threats on the website would instill fear in the Complainants and expose them to harassment, intimidation, and possible physical harm by other adherents of white supremacy.

There is no evidence that either Respondent has been adjudged to have committed a prior discriminatory housing practice; therefore, any civil penalty imposed upon either of them may not exceed \$11,000.00 for each discriminatory act. 42 U.S.C. § 3612(g)(3)(A); 24 C.F.R. § 180.671(a)(1).

Because use of the Internet to commit a housing-related hate act is a relatively recent phenomenon, deterrence of such use is of paramount importance to the goals of the Fair Housing Act. Wide dissemination of threats to specifically targeted individuals exacerbate the nature and effect of those threats. Accordingly, the goal of deterrence makes the award of a maximum civil penalty appropriate.

Respondents have neither claimed nor produced any evidence that they are unable to pay a civil money penalty. Respondents' financial circumstances, therefore, are not a factor in determining the civil money penalty to be assessed in this case. *HUD v. Perland*, 2 Fair Housing-Fair Lending (Aspen) ¶¶ 25,136, 26,131 (HUDALJ March 30, 1998).

Respondents' actions strike at the very heart of the Fair Housing Act. If dedicated and talented fair housing advocates and their families may be targeted, intimidated, and harassed with impunity, then the enforcement mechanism of that Act will be rendered impotent. Respondents express no remorse nor any misgivings about their actions or the consequences of those actions. In fact, they have failed to cooperate in pre-hearing processes and have not deigned to appear at the hearing. Under the circumstances, the most severe civil penalty authorized by law is intended to send the message that their conduct cannot be tolerated in a civilized society functioning under the rule of law. Accordingly, a civil penalty of \$33,000.00 will be assessed against Respondent Wilson and a civil penalty of \$22,000.00 will be assessed against Respondent Wilson d/b/a ALPHA HQ.

## SANCTIONS

On March 17, March 24, and April 11, 2000, Wilson failed to appear at scheduled depositions. The Charging Party filed appropriate motions for sanctions for his failure to appear at those depositions, and seeks an order requiring Wilson to pay the cost of the court reporter and travel for HUD counsel to the depositions. Respondents failed to respond to the motions. Good cause having been shown for granting the motions, Respondents will be ordered to pay the requested costs of \$385.00.

## INJUNCTIVE RELIEF

Once a violation of the Fair Housing Act has been established, injunctive or other equitable relief may be ordered to remove the lingering effects of prior discrimination and to insure that a respondent does not violate the Act in the future. *HUD v. Johnson*, 2 Fair Housing-Fair Lending (Aspen) ¶25,076, 25,711 (HUDALJ Jul. 26, 1994); 42 U.S.C. 3612(g)(3). The provisions of the Order set forth below meet the objectives of the Act.

## ORDER

Having concluded that Respondents Ryan Wilson and Ryan Wilson d/b/a ALPHA HQ have discriminated against Bonnie Jouhari and Pilar Danielle Horton, in violation of Section 818 of the Fair Housing Act, as amended (42 U.S.C. § 3617), it is hereby

### **ORDERED** that:

1. Respondents Ryan Wilson and Ryan Wilson d/b/a as ALPHA HQ are permanently enjoined from posting, publishing, or distributing on the Internet, or in any other public forum, any pictures or references of or about Bonnie Jouhari and/or Pilar Danielle Horton;

2. Respondents Ryan Wilson and Ryan Wilson d/b/a ALPHA HQ are permanently enjoined from discriminating against Bonnie Jouhari and/or Pilar Danielle Horton, or any other person, or visitor or associate of such person, with respect to housing because of race or color including, but not limited to: coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted

or protected by the Fair Housing Act; and, retaliating against the Complainants or anyone else for their participation in this case or for any matter related thereto. 42 U.S.C. § 3601 *et. seq.*; 24 C.F.R. Part 100 (1999);

3. Within ten (10) days of the date on which this Order becomes final, Respondents Ryan Wilson and Ryan Wilson d/b/a/ ALPHA HQ shall pay damages in the amount of \$283,683.64 to Bonnie Jouhari;

4. Within ten (10) days of the date on which this Order becomes final, Respondents Ryan Wilson and Ryan Wilson d/b/a/ ALPHA HQ shall pay damages in the amount of \$827,793.75 to Pilar Danielle Horton;

5. Within ten (10) days of the date on which this Order becomes final, Respondents Ryan Wilson and Ryan Wilson d/b/a/ ALPHA HQ shall pay costs of \$385.00 to the Secretary, United States Department of Housing and Urban Development; and

6. Within ten (10) days of the date on which this Order becomes final, Respondent Ryan Wilson shall pay a civil penalty of \$33,000.00, and Respondent Ryan Wilson d/b/a/ ALPHA HQ shall pay a civil penalty of \$22,000.00 to the Secretary, United States Department of Housing and Urban Development.

This Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. §§ 180.675 and 180.680(b) and will become the final agency decision 30 days after the date of issuance of this initial decision.

\_\_\_\_\_/s/\_\_\_\_\_  
Alan W. Heifetz  
Chief Administrative Law Judge

