UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, U.S. Department of Housing and Urban Development, on behalf of Chicago Lawyers' Committee for Civil Rights Under Law, Inc. and Lolita Lindo,
Charging Party,

Chicago Lawyers' Committee for Civil Rights Under Law, Inc.
Intervenor,
v.

Janusz Godlewski,
Respondent.

CORRECTED COPY
December 27, 2007

HUDALJ 07-034-FH
FHEO Case: 05-06-0264-8,
05-06-1663-8
Decided: December 21, 2007

Janusz Godlewski, *Pro se*

Lisa Danna-Brennan, Esq.
Michael Kalven, Esq.
For the Secretary

Before: CONSTANCE T. O'BRYANT
Administrative Law Judge

INITIAL DECISION

On April 24, 2007, the United States Department of Housing and Urban Development ("the Charging Party" or "the Government") filed a Charge of Discrimination on behalf of Complainants Lolita Lindo and Chicago Lawyers' Committee for Civil Rights Under Law ("CLC") against respondent Janusz Godlewski ("Respondent" or "Godlewski"), alleging that Respondent violated the Fair Housing Act ('the Act"), 42 U. S. C. 3601, et seq. when he advertised for rent an apartment located at 2453 North California in Chicago, Illinois ("subject property") in violation of 42 U. S. C. 3604(c). Respondent owned and occupied the subject

property. Specifically, Respondent posted a for-rent sign that read: "FOR RENT, **for two persons**-apt. 2 bedroom**, No kids, No dog**, III floor – 1500 SQ 773-742-8102." (emphasis original.)

Respondent did not answer the Charge of Discrimination or otherwise plead or participate in these proceedings. In May 2007, I granted CLC's motion to intervene. On July 6, 2007, at the motion of the Government and CLC, I entered a default judgment against Respondent and set the matter for a hearing on damages and civil penalty. The Default Decision & Order of July 6, 2007 is hereby incorporated into this decision in its entirety.

The hearing was held on September 11, 2007 in Chicago, Illinois. Despite notice of the hearing, Respondent Godlewski failed to appear or to be represented. At the conclusion of the hearing, I held the record open for post-hearing briefs to be filed on or before October 26, 2007. The Government and CLC filed timely briefs. The record is now closed and the matter is ripe for decision on damages.

The Violation

42 U. S. C. section 3604 provides that, as made applicable by § 3603 and except as exempted by §§ 3603(b) and 3607, it shall be unlawful:

> (c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on ... familial status ... or an intention to make any such preference, limitation, or discrimination.

Prohibited actions covered under § 3604(c) include all written notices or statements by a person engaged in the rental of a dwelling that indicate a preference, limitation or discrimination because of familial status. *See* 24 C.F.R. § 100.75(b). Actions prohibited include the use of words or phrases which convey that dwellings are not available to a particular group of persons

because of familial status and expressing to prospective renters or any other persons a preference or a limitation on any renter because of familial status. 24 C.F.R. §§ 100.75(c)(1) and (2).

The Fair Housing Act contains seven exemptions from its general mandate in § 3604 against discrimination. Section 3603(b)(2) exempts units in buildings that are occupied or intended to be occupied by no more than four families, if the owner maintains a residence in that building (the so-called "Mrs. Murphy" exemption). The dwelling that is the subject of this case is an owner-occupied, three-family dwelling. Mr. Godlewski resides in the building. However, the provisions of § 3604(c) of the Act are specifically carved out of the § 3603 exemptions, thus, the ban on discriminatory advertising, notices and statements in § 3604(c) is not subject to these exemptions.

In my Default Decision & Order of July 6, 2007, I found that Respondent Godlewski committed a discriminatory act against Complainants Lindo and CLC in violation of 42 U. S. C. § 3604 (c) on the basis of familial status when he posted a rental advertisement that excluded opportunity to rent for families with children. Specifically, Respondent posted a for-rent sign that read: "FOR RENT . . . no kids". Since Respondent Godlewski enjoyed an exemption of his property from the general provisions against discrimination, the violation is limited to the advertisement of the rental property, and does not include a refusal to rent the property on a prohibited basis.

Remedies

Where an administrative law judge finds that a respondent has engaged in a discriminatory housing practice, the administrative law judge may issue an order "for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and

injunctive or other equitable relief." 42 U.S.C. § 3612(g)(3). A civil penalty may also be imposed. *HUD v. Cabusora*, HUDALJ 09-90-1138-1 (March 23, 1992).

The purpose of an award of actual damages in a fair housing case is to put the aggrieved person in the same position as he would have been absent the injury, so far as money can. *Schwemm*, Housing Discrimination: Law & Litigation, p. 25, and cases cited therein. Actual damages in housing discrimination cases are not limited to out-of-pocket losses, but may also include damages for intangible injuries such as embarrassment, humiliation, and emotional distress caused by the discrimination. *See e.g. HUD v. Blackwell*, HUDALJ 04-89-0520-1, Dec. 21, 1989, aff'd, 908 F. 2d 864 (11th Cir. 1990) (hereinafter "*Blackwell I*"). Damages for emotional distress may be based on inferences drawn from the circumstances of the act of discrimination, as well as on testimonial proof. *Blackwell I.* 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. *See, Marable v. Walker,* 704 F.2d 1219, 1220 (11th Cir. 1983); *Block v. R.H. Macy & Co.,* 712 F.2d 1241, 1245 (8th Cir. 1983). Awards for emotional distress from housing discrimination have ranged from the nominal amount of $150.00 in *HUD v. Murphy*, FH – FL (P-H) ¶ 25,002 (HUDALJ July 13, 1990), to much more substantial amounts, e.g. $175,000 in *HUD v. Johnson*, FH – FL (P-H) 25,076 (HUDALJ July 26, 1994).

The Charging Party seeks a total of $20,000 on behalf of Complainant Lindo: $18,000 in compensation for emotional damage and $2,000 for tangible loss and inconvenience. Complainant CLC seeks a damage award of $10,000 for frustration of mission and $13,394.16 for diversion of resources. Respondent did not appear at trial nor has he opposed the Charging Party and Complainants' requests for damages. Considering that Respondent has chosen not to

participate in either the liability or damage phase of these proceedings, and finding that the requested awards are reasonable based on the evidence, the requests will be granted.

A. COMPLAINANT LOLITA LINDO:

Emotional Distress

The Charging Party requests an award to Complainant Lolita Lindo of $18,000 for emotional suffering. In support of the amount of award requested, Charging Party cites cases which involved denial of rental because of familial status in violation of 42 U. S. C. § 3604(c). It argues that the effect of Respondent's discriminatory statement on Complainant Lindo was significant. It describes four specific circumstances which increased significantly the impact of Respondent's discriminatory statement on her: 1) At the time Complainant Lindo saw the "for rent" sign she was under enormous pressure to find suitable housing and was feeling desperate about her circumstances; 2) Because Complainant Lindo's son was with her when she viewed the sign bearing the discriminatory statement, she was forced to discuss the painful reality of the discrimination with him at a time when she was not prepared to do so; 3) As an African-American woman who had previously experienced a blatantly discriminatory sign years before, she was already sensitive to discriminatory postings; and, 4) She has a neurological condition that predisposes her to migraine headaches when she is exposed to stress.

Complainant Lindo was a highly credible witness, as was her good friend, Danyell Abston, who testified on her behalf. I give great weight to the description of both as to the impact of Respondent's discrimination on Ms. Lindo's emotional state.

As to the pressure Complainant Lindo was experiencing at the time of the discrimination, her testimony shows that she had just lost an apartment that she enjoyed living in and was frustrated and sad about the prospects of having to move to another. She and her son loved the area of the Logan Square neighborhood in Chicago where she had lived for more nearly three

years. It was a neighborhood rich in cultural diversity and was close to an expressway, which was a very attractive factor to her since her job required extensive driving. Tr.19. When her landlord unexpectedly raised her rent by several hundred dollars, she was devastated. She was unable to afford the rent increase and was required to move out. Tr. 19-21.

Complainant Lindo wanted to stay in the Logan Square neighborhood but did not feel good about her chances of doing so because her landlord gave her little time to find another place. She also wanted a residential unit that had yard space because her son was ten years old at the time and she desired space for him to run and play. Tr. 22. According to Ms. Abston, Ms. Lindo was already experiencing significant stress and "desperately" trying to find a suitable place to live when she came upon Respondent's apartment for rent. She had little more than a month before she would be required to move out of her apartment. (Tr. 20, 47).

Complainant Lindo was "excited" when she noticed the "For rent" sign posted at Respondent's location, thinking that she had gotten lucky. The property in question is a three-unit, multi-family dwelling, in Logan Square. Complainant Lindo had previously admired the property during her frequent commutes through the neighborhood. It sat on a main thoroughfare that she traveled. It had "caught [her] eye" because it was a "beautiful three flat graystone with a huge side yard." Tr. 23. Ms. Lindo testified that the huge side yard was unique to Logan Square. Unable to read the sign from the car, Complainant Lindo parked her car, leaving her son inside, and approached the sign to take down the contact information. Tr. 24, 25. She read the sign: "For rent for two persons. Apartment two bedroom, no kids, no dog. Third floor 1500 Square feet. (773) 742-8012." Tr. 26. GX 1. She was "stunned." In astonishment and disbelief, she read the sign a couple times more, not wanting to believe that someone would dare so boldly to publicly discriminate this way. She became "really angry." So angry that she found it difficult to resist the urge to call the phone number on the sign and "curse out" the person who had posted

the sign. It was the first "on the spot" discrimination she had experienced and she found it difficult to contain her anger and resentment. Tr. 27.

Still in disbelief, Complainant Lindo returned to her car. She sat in her car stunned and silent, thinking "I can't believe this." Her equilibrium was disrupted. When her son, responding to her noticeable distress, asked her "what's the matter, Mommy?" she didn't know how to answer him. It posed a dilemma for her. She admittedly was "very overprotective" of her son. She did not want to explain to him that there are people who don't want children to live near them or in their buildings. Tr. 27. Now she was faced with deciding how to explain discrimination to her child. Tr. 28, 47. The situation was very painful and stressful for her.

Viewing the discriminatory posting also caused Complainant Lindo to relive a discriminatory experience from her past (racial) when she had observed a similarly worded sign that read: "no Jews, no blacks, no dogs." That experience was both painful and frightening for her and reliving it exacerbated the stress of the instant matter. Tr. 29.

Complainant Lindo related the experience of viewing the sign posted by Respondent to her close friend, Danyell Abston. When telling Abston about reading the sign, Ms. Lindo was visibly upset. She became more animated, paced the floor, and was "uptight." Complainant Lindo referred to Respondent's act of posting the sign as "immoral" and "uncivil." She kept "obsessing" over the experience of approaching the sign and reading it, repeating the hostile nature of the words. Her stress over her desperate housing situation was clearly exacerbated by this event.

Complainant Lindo testified that she is prone to periodic migraine headaches and that as a result of the anger and agitation she experienced after reading the discriminatory posting, she suffered a migraine headache that caused her to go into seclusion, in a dark room, for days. Migraines are extraordinarily painful for her. They cause her to have pain down her entire right

side. She also experiences temporary paralysis and cold sensations. Tr. 43, 44, 52, 53. She experienced all of these symptoms for several days following reading the sign in question. Much of this time she closeted herself in a dark room and wanted only quiet. Her testimony in this regard was very credible and fully corroborated by Ms. Abston.

The Charging Party argues that Complainant Lindo's life history made her more sensitive to Respondent's discriminatory statement than another might have been. This is because she had a previous discrimination experience and because she is a person who has a special sensitivity to the treatment of people, especially children. Thus, the Charging Party argues that an award of $18,000 is reasonable compensation for her emotional suffering. I agree that $18,000 is a reasonable amount of compensation based on the evidence in this case.

This forum has long taken the position that those who discriminate in housing take their victims as they find them. Where a victim is more emotionally affected than another might be under the same circumstances, and the harm is felt more intensely, he/she deserves greater compensation for the discrimination that caused the suffering.

> Housing discriminators must take their victims as they find them; that is, damages are measured based on the injuries actually suffered by the victim, not on the injuries that would have been suffered by a reasonable or by an ordinary person. Put otherwise, judges must take into consideration the susceptibility of the victim to injury. *Heifetz & Heinz*, supra p. 9 at 22-23.

See also HUD v. Dutra, HUDALJ Nov. 12, 1996, 2A FH - FL (P-H) ¶ 25,124, 26,062-63 (Complainant's fragile emotional state subjected him to greater emotional harm by Respondent's discrimination). Thus, the peculiar circumstances of Complainant's situation may properly be taken into account in determining a proper damage award.

Courts have long recognized the indignity inherent in being on the receiving end of housing discrimination. The Charging Party cites the cases of *HUD v. Wooten*, HUDALJ Dec. 3,

2004, 05-99-0045-8, 2007 WL 3201000, *rev'd in part & remanded sub nom*, *White v. HUD*, 475 F. 3d 898 (7th Cir. 2007), *decision on remand*, 2007 WL 2248087 (HUDALJ Aug. 1, 2007), *HUD v. Gruen*, HUDALJ Feb. 27, 2003, 05-99-1375-8, and *HUD v. Dellipaoli*, FH. - FL. (P-H) ¶ 25,127 at 26,072 (Jan. 7, 1997). However, *Gruen* is not particularly apt in that *Gruen* involved a 3604(a) violation (discriminatory refusal to rent) in addition to the 3604(c) violation. This case is a solely 3604(c) case where the Respondent resided within the advertised rental dwelling. As was previously stated, there is no discriminatory failure to rent component here. Both *Wooten* and *Dellipaoli* are solely 3604(c) cases involving exempt properties and thus are more analogous.

In *Wooten*, a case involving a mother who was seeking housing for herself and her two sons, the complainant was awarded $10,000 in emotional distress damages and $2,000 for each of her two children, where she became very upset, angry and insulted by the impact of the discriminatory oral statement made by respondent. The nature of the discriminatory statement in *Wooten* was ambiguous enough, as the Government states, that it was only interpreted to be discriminatory after appeal to the 7th Circuit. In the instant case, Respondent Godlewski's sign stating "no kids" is blatantly discriminatory. Moreover, the impact on the complainant in *Wooten* was less severe than on the instant complainant who was not only felt upset, angry and insulted, but was also made to relive a past discriminatory statement and to suffer through days of debilitating migraine headaches.

Similarly, the degree of emotional distress suffered by Complainant Lindo and *caused by the discriminatory statement* in this case is far greater than that suffered by the complainant in *Dellipaoli*. In that case the complainant was awarded only $500 for her emotional distress. The *Dellipaoli* case provides no basis for declining to award the requested amount in this case. In *Dellipaoli*, a decision I issued, the low emotional damage award was appropriate because

although the complainant testified to significant emotional distress, the level of distress she described was caused almost entirely by the refusal of the landlord to rent to her. By far the greatest component of the complainant's emotional distress was her subsequent inability to find suitable housing and her subsequent need to send her son away to live with an older brother and all the stress and costs associated with that effort. Indeed, the complainant sought compensation for the loss of housing because of the refusal to rent. She believed that had been entitled to rent the property in question. However, loss of housing is not compensable in a section solely 3604(c) exemption case; therefore, the low award.

Considering the facts of this case, and in view of the awards issued in *Wooten*, I find that an award of $18,000 to Complainant Lindo for emotional distress is appropriate in this case. While it is true that a part of Ms. Lindo's distress came from the realization that she could not rent the particular apartment in question, based upon her testimony and that of Ms. Abston, it is clear that Ms. Lindo's distress went far beyond that concern. The impact of reading the sign caused emotional distress, in and of itself. She experienced anger and disbelief that someone would so blatantly advertisement discriminatory thoughts. It also caused her dilemma over what to tell her son, and caused her to relive past discrimination. These stressors ultimately caused her to have a severe and debilitating migraine attack of several days duration. Considering the severity of the impact which flowed from reading the sign, I conclude that an award of $18,000 is justified.

Financial loss and Inconvenience

The Charging Party argues that Complainant Lindo suffered inconvenience and financial loss as a result of Respondent's discriminatory acts for which she should be compensated. The Charging Party seeks $2,000 to compensate her for the cost of cell phone calls and inconvenience due to having to communicate with HUD and CLC as detailed below.

Complainant Lindo's cell phone costs and inconvenience were caused by the necessity for numerous interviews by Complainant-Intervenor's staff members, including Laurie Wardell, Fair Housing Project Director, and Justin Massa, Outreach and testing Coordinator. She also assisted them in their investigation of the matter. Tr. 85, 36. In total, she spent approximately two hours of telephone time communicating with CLC's staff between August 2005 and March 2006 regarding this case prior to ever speaking with HUD personnel. Tr.36. Moreover, she spoke with a HUD investigator many times before and after the filing of her HUD complaint, and once the complaint was filed, spoke with the legal staff, as well. Tr. 35, 37, 39 -40. In total, these calls amounted to approximately four hours.

Complainant Lindo used her cell phone to make the calls discussed above. Her testimony was that she paid approximately $300 a month for a 2500-minute package. She used the cell phone for both personal calls and work calls. Tr. 41.

Complainant Lindo met in person with HUD legal staff twice for a total of four hours. Tr. 41-42. In addition, she appeared at the hearing which lasted approximately three hours, for a total of seven hours in which her personal appearance was required. Those seven hours combined with the six hours of cell phone time totals thirteen hours of attention to this case.

The testimony shows that in order to facilitate the thirteen hours of calls and meetings Complainant Lindo often had to rearrange her work schedule. She did not work fixed hours. She was paid on a commission basis and earned her living by being available for opportunities to visit accident sites. When she was not available for an opportunity, she risked losing the commission on that opportunity. Tr. 41-42. She missed commission opportunities during the time she was unavailable due to the need to participate in the preparation of this case for a total of thirteen hours (six hours by cell phone and seven hours of in-person time). She deserves

compensation for her loss. I conclude that the request is not unreasonable, given the circumstances, and therefore will grant that amount.

B. COMPLAINANT – INTERVENOR CLC:

The Complainant – Intervenor seeks recovery of damages in the amount of $13,394.16 for diversion of resources and $10,000 for CLC for frustration of mission, for a total of $23,394.16. The Charging Party concurred in the requested amounts. Damages amounting to $24,394.16 will be awarded.

Frustration of Mission

CLC is a not-for-profit civil rights law firm that operates a fair housing project. Tr. 5. The mission of the CLC is to promote and protect civil rights in order to facilitate the participation of all people in the social, economic and political systems of our nation. Tr. 58. The Fair Housing Project run by CLC educates, investigates and provides pro bono legal services to persons who experience housing discrimination. Tr. 58.

The testimony showed that the mission of CLC was frustrated by the actions of Respondent Godlewski when he posted the discriminatory for-rent sign, showing a dispreference for kids. The CLC saw Respondent's actions as sending a message to all that would read the sign that it was acceptable to exclude families with children from renting an apartment, and also that it was acceptable to advertise in this way. Tr. 77. According to CLC, prior to Respondent's posting of the discriminatory sign, it had believed that the problem of print discrimination or discriminatory postings (apart from internet postings) had all but disappeared in Chicago. Because of that belief, CLC had not focused its training and efforts on print ads in recent years. However, Respondent re-introduced into the Chicago housing market the idea that one could discriminate against families with children and that it was okay to do so. Given Respondent's blatant discriminatory act, CLC concluded that it had the potential of reinforcing onlookers' false

and stereotypical notions that the familial discrimination was both legal and socially acceptable. Thus, the content of Respondent's posting frustrated CLC's mission to promote and protect the civil rights of all people and required CLC to take action to combat the civil rights' challenge.

Diversion of Resources

Respondent's discriminatory acts required CLC to divert resources it had planned to expend on other civil rights activities to activities particularly related to discriminatory advertising. CLC's staff members postponed other planned civil rights activities in order to investigate the facts alleged by Complainant Lindo. Members visited Respondent's property twice. CLC also diverted some of its resources to counsel Complainant Lindo related to this case.

Moreover, the time and money that CLC spent pursuing a legal remedy for Respondent's act of discrimination diverted time and money away from the organization's other functions and goals. It cost CLC the opportunity to use its resources elsewhere. CLC contends that these "opportunity costs" for the diversion of resources should be recouped from the party responsible for the discrimination. *See U. S. v. Balistrieri* 981 F. 2d 916 (7th Cir. 1992) (damages awarded to a fair housing organization for time and money deflected to legal efforts by housing discrimination). *See also Village of Bellwood v. Dwivedi*, 895 F. 2d 1521, 1526 (7th Cir. 1990)(holding that opportunity costs exist even where housing counseling is not impaired directly, because there would be more of it were it not for the discrimination.)

The testimony showed that the timing of the complaint against Respondent Godlewski presented a particular hardship for CLC in that it needed the time to spend performing tasks required to comply with its HUD fair housing enforcement grant. Tr. 88. CLC had just hired Justin Massa within three weeks before the acts in question and needed him to focus his attention on compliance with the HUD grant. Mr. Massa was hired mid-grant and would have only six

months to learn his new job and to complete the grant requirements. Meeting the grant obligations was already expected to be particularly difficult. Tr. 89. Mr. Godlewski's discriminatory posting caused CLC, through Mr. Messa, to divert resources to investigate the case and to conduct research instead of spending full time on the grant requirements. Tr. 90, 95. Godlewski's discriminatory posting also caused CLC to revise its training prepared under the HUD grant to address print advertising, which it previously had not felt the need to do. Tr. 90. CLC's staff members were forced to spend approximately 76 hours of staff time addressing the complaint against Respondent Godlewski, not including many hours spent preparing for the hearing, time spent on its post-hearing brief or certain other training responsibilities of Mr. Massa. Tr. 66-70. Approximately 60 hours of CLC's staff time were attorney hours, while approximately 17 hours were Mr. Massa's hours. Tr. 70. CLC valued Mr. Massa's time at $100 per hour. Tr. 71. Finally, CLC will be required to devote additional time into the future to deal with the result of Respondent Godlewski's discriminatory action. Consistent with this decision, it will have need to monitor Mr. Godlewski's rental practices for several years to ensure that he does not violate fair housing laws again. Accordingly, I conclude that the requested amount for diversion of resources is not unreasonable.

C. OTHER RELIEF

The Charging Party requests imposition of the maximum civil penalty of $11,000 against Respondent and asks for specific injunctive relief. Both the Charging Party and Intervenor seek to permanently enjoin Respondent from discriminating against families with children for the benefit of public interest; an order requiring monitoring of Respondent for a period of three years from the entry of the judgment; and the issuance of an injunction preventing Respondent from transferring the property located at 2453 N. California, Chicago, Illinois, the location of the

discriminatory act in this case, or any other property in his possession until he has satisfied the judgment against him. These requests, too, are reasonable and will be granted.

Civil Penalty

To vindicate the public interest, the Act also authorizes an administrative law judge to impose a civil penalty upon a respondent who has been found to have discriminated in violation of the Act. 42 U.S.C. § 3512(g)(3)(A); 24 C.F.R. § 180.670(b)(3)(iii)(2007). However, assessment of a civil penalty is not automatic. It requires consideration of five specific factors: 1)the nature and circumstances of the violation; 2) the degree of culpability; 3) any history of prior violations; 4) the financial circumstances of the Respondent; and 5)the goal of deterrence, and other factors as justice may require. *See HUD v. Jerrard*, 2 FH – FL (P-H) ¶¶25,005, 25,092 (HUDALJ, Sept. 28, 1990). The Charging Party seeks the maximum civil penalty for a first time violation of $11,000. I conclude that the maximum civil penalty is warranted under the circumstances of this case.

Nature and Circumstances of the Violation

I conclude that the nature and circumstances of Respondent's violation merit imposition of a significant penalty. It is not clear what prompted Respondent's unlawful discrimination. However, by posting the sign stating “no kids” “no dogs”, he likely insulted other families with children and discouraged them from seeking to rent at his property. The testimony shows that the subject property is located on a busy Chicago street that is a main thoroughfare through town. Thus, the sign spoke not only to Complainant Lindo but likely to numerous members of the public who passed by the area. Moreover, such postings could have the result of encouraging other property owners to see if they can get away with similarly exercising a discriminatory preference in renting. Respondent has not shown any concern that his conduct was not in compliance with the law. He has not participated in these proceedings.

Degree of Culpability

The Fair Housing Act ("Act"), as amended, has been in place for nearly 20 years. Respondent is a housing provider who either knew, or should have known, that Act prohibits discrimination against families with children. The evidence shows that Respondent has significant experience with rental transactions. He knew, or should have known, that he would violate the Act by posting a sign saying "no kids." The evidence demonstrates that he acted with careless disregard for anti-discrimination provisions of the Fair Housing Act. *See Morgan v. HUD*, 985 F. 2d 1451 (10th Cir.1993).

History of Prior Violations

There is no evidence that Respondent has been adjudged to have committed any previous discriminatory housing practices.

Respondent's Financial Circumstances

Evidence regarding Respondent's financial circumstances is peculiarly within his knowledge, so he has the burden of producing such evidence for the record. If he fails to produce credible evidence which would tend to mitigate against assessment of a civil penalty, a penalty may be imposed without consideration of financial circumstances. *See Campbell v. United States*, 365 U.S. 85, 96 (1961); *Blackwell I.* Respondent has chosen not to participate in these proceedings. The extent of Respondent's assets and liabilities is not fully known, but the evidence strongly suggests that he is able to pay such a penalty. Since Respondent did not present evidence to the contrary, the record supports finding that Respondent could pay the maximum civil penalty without suffering undue hardship.

Goal of Deterrence

An award of some civil penalty is appropriate as a deterrence to others. Those similarly situated to Respondent must be put on notice that violations of the Fair

Housing Act will not be tolerated. Owners must be put on notice that the making of discriminatory statements to prospective tenants, whether oral or written, will not be tolerated. Other factors as justice require:

Maximum penalties should be reserved for the most egregious cases and imposed where needed to vindicate the public interest. In this case, although a first offender, Respondent has thumbed his nose at the system with regard to the prosecution of this case. He has refused to participate in the legal proceedings since the filing of the complaint in this forum. He has shown no concern for the civil rights of these Complainants or for the general public interest. His refusal to participate in these proceedings suggests disrespect for, or contempt of, the Fair Housing Act, this court, and the general public interest and is an appropriate additional factor to consider in assessing a civil penalty. Respondent's dismissive attitude trumps the other factors that might have otherwise suggested a less than maximum penalty.

Based on consideration of the factors discussed above, I conclude that the above-described violation of the Act and Respondent's conduct in response to the violation, are particularly egregious, sufficient to warrant the maximum civil penalty of $11,000. That amount will be awarded.

Injunctive Relief

The administrative law judge may order injunctive or other equitable relief to make the complainant whole and to protect the public interest in fair housing. 42 U.S.C. § 3623(g)(3). "Injunctive relief should be structured to achieve the twin goals of insuring that the Act is not violated in the future and removing any lingering effects of past discrimination." *Marable v. Walker*, 704 F. 2d at 1219, 1221 (11th Cir. 1983). The purposes of injunctive relief in housing discrimination cases include: eliminating the effects of past discrimination, preventing future discrimination, and positioning the aggrieved persons as close as possible to the situation they

would have been in but for the discrimination. *See Park View Heights Corp. v. City of Black Jack*, 605 F. 2d 482, 485 (7th Cir. 1975)(citation omitted). The relief is to be molded to the specific facts of the case.

The Charging Party seeks injunctive and other equitable relief in light of the violation. I conclude that the requested relief serves to rectify any past harm or to deter others. Therefore, the requested relief shall be ordered.

CONCLUSION AND ORDER

The preponderance of the evidence establishes that as a result of Respondent's unlawful action, Complainants Lindo and CLC suffered injuries which must be remedied by an award of compensatory damages. In addition, to protect and vindicate the public interest, a civil penalty must be imposed against Respondent. Accordingly, the following Order is entered.

ORDER

Having concluded that Complainant Lolita Lindo suffered injuries resulting from Respondent's discriminatory posting in violation of 42 U.S.C. § 3604(c) of the Fair Housing Act, it is hereby ORDERED that:

1. Within thirty (30) days of the date on which this Order becomes final, Respondent shall pay actual damages in the amount of $18,000 to Complainant Lindo for emotional distress and humiliation and $2,000 for tangible losses and inconvenience, for a total of $20,000;

2. Within thirty (30) days of the date on which this Order becomes final, Respondent shall pay actual damages in the amount of $24,394.16 to Complainant-Intervenor Chicago Lawyers' Committee for Civil Rights Under Law, Inc. for frustration of its mission and diversion of its resources;

3. Within thirty (30) days of the date on which this Order becomes final, Respondent shall pay a civil penalty of $11,000 to the Secretary, United States Department of Housing and Urban Development;

4. Respondent is hereby permanently enjoined from discriminating against families with children;

5. For a period of three years after issuance of this decision, Respondent Godlewski shall provide the following information to Complainant-Intervenor CLC for monitoring purposes:

a. a duplicate of every written application, and written description of any oral applications, for a unit at the subject property, including statements as to the applicants familial status, whether the person was accepted or rejected, the date of such action, and if rejected, the reason for such action;

b. notices of vacancies at the subject property;

c. familial status of current tenants at the subject property; and

d. sample copies of advertisements; and

6. Respondent Godlewski is hereby enjoined from disposing or transferring the property located at 2453 N. California, Chicago, Illinois or any other real property in his possession until he has satisfied the judgment against him imposed in this case.

This Order is entered pursuant to 42 U.S.C. § 3612(g)(3) of the Fair Housing Act and the regulations codified at 24 C.F.R. § 104.910, and will become final upon the expiration of thirty (30) days or the affirmance, in whole or in part, by the Secretary within that time.

Dated: December 21, 2007
Corrected: December 27, 2007

_____
CONSTANCE T. O'BRYANT
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of this CORRECTED COPY DECISION issued by CONSTANCE T. O'BRYANT, Administrative Law Judge, in HUDALJ 07-034-FH, were sent to the following parties on this 27th day of December, 2007, in the manner indicated:

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