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 Diane C. Miller, Lei Miller, and Conne Miller,

Charging Party,

v.

Donald Bucha,
Jaime Chamorro,

Respondents.

HUDALJ 09-91-1384-1
Decided: May 20, 1993

M. Hope Young, Esq.
R. Faye Austin, Esq.
For the Government

Leonard W. Stitz, Esq.
For the Respondents

Before: ALAN W. HEIFETZ
Chief Administrative Law Judge

INITIAL DECISION

Statement of the Case

This matter arose as a result of a complaint filed by Diane Miller and her two minor daughters, Lei and Conne Miller ("Complainants"). They alleged discrimination based on familial status in violation of the Fair Housing Act as amended, 42 U.S.C. §§ 3601, *et seq*. ("the Act"). The Department of Housing and Urban Development ("HUD" or "the Secretary") investigated the complaint and determined that reasonable cause existed to believe that discrimination had occurred. On October 22, 1992, HUD issued a charge against Jaime Chamorro and Donald Bucha ("Respondents") alleging that they had violated 42 U.S.C. § 3604(a).

A hearing was held in Palm Springs, California on February 9, 1993. The parties' briefs were timely filed on March 26, 1993.

Background

The record is sufficiently clear to find that Diane Miller met Jaime Chamorro at the Casa Palameras apartments on February 5, and February 7, 1991, to seek information about a vacancy at the complex. (Tr. 54-55, 108-109, 155; S.Ex. 2-C1).[1] However, the record is so replete with inconsistencies and evidentiary gaps that extensive subsidiary findings of fact, including those regarding damages and civil penalties, cannot be made. Ms. Miller gave testimony that contradicts her own earlier versions, as well as Mr. Chamorro's version, of the two encounters. Nevertheless, an exegesis of the textual versions set forth below is sufficient to determine by a preponderance of the evidence that a violation exists, and the extent of any damage caused by the violation.

Findings of Fact

Complainants' Search for Housing at the Casa Palameras

In February 1991, Donald Bucha owned the Casa Palameras, a multi-building apartment complex in Palm Springs, California. Each building at the Casa Palameras has a separate address: 139 East Tamarisk, 783 North Indian, and 766 North Palm Canyon. (Tr. 154). He delegated the management of the complex and the authority to rent apartments to Jaime Chamorro. (Tr. 187, 190). Mr. Bucha no longer owns the property, and Mr. Chamorro is no longer the building manager.[2]

Diane Miller testified as follows: At approximately 7:30 P.M. on February 5,

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[1] The following reference abbreviations are used in this decision: "Tr." for Transcript and "S.Ex." for Secretary's Exhibit. Pages within individual exhibits are referred to alphabetically.

[2] In their Response to the Charge of Discrimination, Respondents stated that Mr. Bucha transferred the Casa Palameras to an unknown party on August 5, 1992. The Charging Party does not dispute this assertion. Mr. Chamorro was building manager of the Casa Palameras from November 1990 through September 1992. (Tr. 157-58).

1991, she and her daughters, Conne, age 12, and Lei, age 3, were walking downtown when they saw a for-rent sign at the Casa Palameras. Because they were engaged in an ongoing search for housing, the Millers entered the complex. They encountered a woman who pointed out as the building manager a man ascending the stairs to the second floor. She also told Ms. Miller that she lived at the Casa Palameras and paid $350 in monthly rent. The Millers knocked on the door of the apartment that the manager had entered, and, when he answered, Diane Miller asked, "Do you have any rentals?" He responded, "We do not rent to children," and he slammed the door. The Millers left immediately. (Tr. 52-55).

Ms. Miller reported this incident to the Fair Housing Program of Riverside County ("the County"). (Tr. 57). The counselor assigned to Palm Springs told Ms. Miller that he needed the manager's name and address to begin processing a Fair Housing complaint. She returned to the Casa Palameras where Mr. Chamorro gave her his name and address. (Tr. 58).

Ms. Miller's testimony contradicts both of her earlier versions of the incident. In conversations with the County counselor on February 6 and 7, 1991, Ms. Miller described the encounter with Mr. Chamorro as pre-arranged, rather than casual, and without any reference to rudeness. She stated to the counselor that the manager of the Casa Palameras advised her over the telephone of a vacancy at the complex. She further told the counselor that when she arrived to view the vacant apartment, the manager advised her that "they do not accept children, although there are children there," after which he merely "closed" the door. (S.Ex 12-A). The counselor's intake notes make no reference to any allegation that the manager "slammed" a door or manifested anger, belligerence or rudeness. She reiterated to HUD's investigator on July 15, 1991, that Mr. Chamorro merely "closed" the door to his apartment and refused to talk to her. However, she also stated to the HUD investigator that she went into the complex because she had seen a "FOR RENT" sign, that the manager told her he did not rent to children, and that he refused to respond to her request for his name. (S.Ex. 2-B2). The statement to the HUD investigator that Mr. Chamorro refused to give his name is inconsistent with the County counselor's intake notes that recite Mr. Chamorro's name, address and telephone number. Those notes are dated February 6, 1991, the day before Ms. Miller testified that she returned to the Casa Palameras to obtain Mr. Chamorro's name.

Contrary to Diane Miller's testimony, Jaime Chamorro consistently maintained that he never slammed the door or refused to talk to her. In his affidavit, submitted to the HUD investigator, he stated that he would not engage in such conduct because having been raised in South America, he would not behave in a way that was considered to be insulting to a person. (S.Ex. 2C-1). In his testimony, he also forcefully denied slamming the door, again asserting that such action would be "totally incongruous" with his background. (Tr. 156). Conne Miller, though she was present during the entire incident, was not asked, nor did she testify, whether the door was slammed. (Tr. 109).

Mr. Chamorro described his encounters with Diane Miller as follows: He testified

that on February 5, 1991, at approximately 7:30 P.M., he was leaving his apartment. Outside his doorway was a group of people, including Ms. Miller and her daughters, asking about renting at Casa Palameras. He distributed his business card to some members of the assembled group, but was unsure whether he handed his card to Ms. Miller. He recalls suggesting to Ms. Miller that they speak at another time. (Tr. 154-55, 170-172). She returned to the complex within two days.[3] Mr. Chamorro told her that the only available apartment was a studio at the top of a steep flight of stairs. This location made the apartment dangerous, and "precluded" him from renting that unit to families with children. Ms. Miller then left without filling out an application. (Tr. 156, 160, 165, 174; S.Ex. 2-C1).

During the investigation and the hearing, Donald Bucha repudiated Mr. Chamorro's statement that he was "precluded" from renting any apartment to the Millers. In two phone calls to the HUD investigator on August 26, 1991, he stated that Mr. Chamorro meant that the steep stairs "hampered" rather than "prevented" him from renting to families with children, and that they have, in fact, rented to families with children. (S.Ex. 2-C4, C5). He testified that potential hazards should be pointed out to families with children, but that hazards should not disqualify families with children from renting an apartment. (Tr. 193-94).

Damages Evidence

The Complainants lived at the Carlton Hotel ("Carlton"), 1333 North Indian, Number 6-A, Palm Springs, California from July 1990 until July 1992. (Tr. 44). Their rent was $380 per month. (Tr. 80). Since July 1992, they have lived at 1315 North Indian Canyon, Number 4, Palm Springs, California. (Tr. 44).

[3] This testimony differed slightly from the information Mr. Chamorro initially gave to the HUD investigator. In his affidavit, Mr. Chamorro recounted only one meeting with Ms. Miller, on February 5, 1991, during which he told her that he could not see her at that time, but that "she was somewhat insistent that [he] see her now." (S.Ex. 2-C1). Aside from the question when their discussion took place, his testimony was consistent with his affidavit.

As soon as her family moved into the Carlton, Ms. Miller tried to locate other housing. (Tr. 51). She testified that during the seven months before the encounters at the Casa Palameras, she informally sought information on approximately fifty rentals, and visited approximately twenty-five of these properties. (Tr. 84). Although she applied to rent some of these properties, none of her applications was accepted, and no one explained to her why she was refused as a tenant. (Tr. 85). She believed that landlords became rude, hostile, and evasive when they learned she would be renting with her daughters. (Tr. 86).

The only concrete evidence of any search she made for alternative housing following the encounters with Mr. Chamorro at the Casa Palameras was contained in a

letter Ms. Miller wrote to the County counselor on May 15, 1991, describing her attempt to get information on another rental in Palm Springs that, ultimately, she found she could not afford.[4] (S.Ex. 13).

In April or May of 1991, Mr. Chamorro offered a one-bedroom apartment to Ms. Miller during conciliation discussions with the HUD investigator. (Tr. 158-59). This apartment was on the first floor of another building in the complex, and had a securable fence separating the apartment from the nearby swimming pool. (Tr. 181, 183). Ms. Miller rejected this offer on two grounds. First, despite concerns for her own and her daughters' safety at the Carlton, she found Mr. Chamorro's offer to be "condescension, and placation in an attempt to get himself off the hook." (Tr. 101). She also rejected the offer because she was getting conflicting information from the HUD office in Orange, California, about the amount of the rental payment for the apartment. She was told that the amount was higher than what she believed the rental rate had been on February 5, 1991.[5] (Tr. 104-105). Mr. Chamorro never discussed rental rates directly with Ms. Miller. (Tr. 106).

Diane Miller testified that for the entire duration of their tenancy at the Carlton, the lack of a kitchen in their apartment caused a number of difficulties. Because she was concerned about the quality and freshness of the food her children ate, Ms. Miller went food shopping every day. High grocery prices in Palm Springs compelled her to travel by bus to other, less expensive areas to shop. To feed her children hot meals, she took them to restaurants or patronized supermarket delicatessens. Between the costs of prepared food and her daily bus rides, Ms. Miller estimated that she spent approximately $50 per month more than she would have if the apartment at the Carlton had had a kitchen. (Tr. 46-47).[6] Conne Miller testified that she felt deprived because they had no

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[4] The Charging Party introduced three lists of available low income housing in the Palm Springs area that Diane Miller received from the County of Riverside and Catholic Social Services in 1990 and in early 1991. (S.Ex. 8). Ms. Miller testified generally that she visited approximately half of the properties on those lists, but that she could not state whether any list was received after the encounters at the Casa Palameras, and she was not asked, nor did she testify that the properties on these lists had anything to do with a search for alternative housing after February 1991. (Tr. 75-78).

[5] There is, in fact, no reliable evidence of what the rental rate for any apartment at the Casa Palameras was at any particular time. Ms. Miller testified that she spoke to an unidentified Casa Palameras resident who said she was paying $350 per month. (Tr. 54). There is no evidence to indicate when this resident began paying that rent, the period of any lease, or the size or location of the apartment. On
July 24, 1991, Ms. Miller informed the County counselor that, in February 1991 an apartment at the Casa Palameras rented for $400 per month, but that it had since increased to $500 per month. (S.Ex 12-B). Again, there is no evidence at all that would tie any rental rate to any particular apartment or term of lease, and no reliable evidence upon which I could determine the rental rate at any time on any particular apartment or type of apartment.

[6] There is no evidence to demonstrate why Ms. Miller would not continue to incur transportation expenses to shop for groceries outside of Palm Springs, even were she to acquire a kitchen in a Palm Springs apartment. Moreover, there is no evidence that all the apartments at the Casa Palameras had

kitchen and could not cook meals. (Tr. 110).

Ms. Miller testified that from February 5, 1991, until her family moved out of the Carlton, their apartment had broken windows, a faulty shower, a rising bathroom floor, a crumbling wall, a weak main floor, and roaches. (Tr. 46, 110; S.Ex. 6, 7).

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kitchens. There is evidence that the complex had once been a hotel. (S.Ex. 2-C2).

Diane Miller testified that she felt "sickened very bad and very angry" after being told by Mr. Chamorro that he would not rent to children. (Tr. 55). She also testified that she felt helpless because she was responsible for the welfare of her daughters, but that she could not "even get them away from an unsafe situation" at the Carlton. (Tr. 57). Conne Miller testified that she was "very upset and angry...like having a feeling of despair, sort of," at the thought that her family "might never get out of the Carlton Hotel." (Tr. 109). Diane Miller considered herself and her family to be in good mental and physical health, and had not sought any counseling after the encounter. (Tr. 101).

Discussion

The Fair Housing Act makes it unlawful to "refuse to...rent...or otherwise make unavailable or deny, a dwelling to any person because of...familial status...." 42 U.S.C. § 3604(a).[7] The record, though spare, demonstrates by direct evidence a violation of the Act. The Millers constitute a family with children; they sought an apartment at the Casa Palameras; and an apartment was unavailable to them because of their familial status. At some point during early February 1991, Mr. Chamorro told the Millers that he was "precluded" from renting an available unit to them because of the children. His use of the word "precluded" plainly meant that he was refusing to rent to them, that he was denying them the apartment, and that the apartment was not available to them.

[7] The Determination of Reasonable Cause and Charge of Discrimination ("the Charge") asserts a determination of reasonable cause to believe that Respondents have violated only § 504(a) (sic) of the Fair Housing Act. Presumably the determination refers to 42 U.S.C. § 3604(a). However, in the allegations supporting the Charge, Respondents are alleged to have violated 42 U.S.C. §§ 3604(a), (b), and (c). Respondents have not challenged the Charge as defective, and, in their brief, acknowledge the charges under all three sections. Because the parties had the opportunity to present evidence on all three subsections of
§ 3604, I consider them to have been litigated by consent.

Respondents seek to avoid liability under § 3604(a) by asserting as an affirmative defense that they were motivated by safety concerns for small children who might fall down steep stairs. While those concerns might be benign, and even laudable, Respondents point to no law or legislative history, nor do I find any to suggest that, in a case of an outright refusal to rent, the safety concern of a landlord for a prospective minor tenant is an affirmative defense to liability for discrimination.

The Fair Housing Act also makes it unlawful to "make...any statement...with respect to the...rental of a dwelling that indicates any...discrimination based on...familial status." 42 U.S.C. § 3604(c). Mr. Chamorro's admission in his affidavit that he told Complainants that he was "precluded" from renting to them because of the children is a patent violation of that section. His statement to Complainants was simply verbal confirmation of his unlawful determination not to rent to them.

Finally, the Charging Party argues that Respondents have violated 42 U.S.C. § 3604(b) which prohibits discrimination "in the terms [and] conditions...of...rental of a dwelling...because of...familial status." The factual predicate for this charge is the offer by Mr. Chamorro during conciliation of a one-bedroom unit, not available when the Millers sought housing in February 1991, but that rented for more than the studio apartment that had been available in February 1991. Immediately after stating this factual predicate, the Charging Party's brief then concludes:

> Thus, the respondents have also violated Section 3604 (b) by having different terms and conditions with respect to which units they would have rented to the Millers or any other families with children.

The rationale for the conclusion is elided. The two units were not available at the same time, they have different configurations, and they have different rents. Neither their availability, nor their configuration, nor their rental rate has been shown to differ according to the familial status of a potential renter. Moreover, an offer made during conciliation may not properly become the foundation for an allegation of liability. 42 U.S.C. § 3610(d)(1).[8] Accordingly, I cannot conclude that § 3604(b) has been violated.

As the owner of the Casa Palameras who employed Mr. Chamorro as his building manager and rental agent, Mr. Bucha is a principal who is liable for the wrongful acts of

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[8] The genesis of the Act's limitation on the admissibility of conciliation evidence is Fed. R. Evid. 408 which prohibits the admission of statements made during negotiations "to prove liability for or invalidity of the claim or its amount." 54 Fed. Reg. 3266 (1989). However, a permissible use of settlement evidence is to show a failure to mitigate damages. *See Bhandari v. First Nat. Bank of Commerce*, 808 F.2d 1082, 1103 (5th Cir. 1987), *vacated and remanded on other grounds*, 492 U.S. 901 (1989), *reinstated*, 887 F.2d 609 (1989), *cert. denied*, 494 U.S. 1061 (1990); *Urico v. Parnell Oil,* 708 F.2d 852, 854 (1st Cir. 1983).

his agent. *Hamilton v. Svatik*, 779 F.2d 383, 388 (7th Cir. 1985). Mr. Chamorro was acting within the scope of his apparent authority, and Mr. Bucha does not allege otherwise.

Relief

Having found that Respondents have engaged in discriminatory housing practices, Complainants are entitled to "such relief as may be appropriate, which may include actual damages...and injunctive or other equitable relief." 42 U.S.C. § 3612(g)(3). Respondents may also be assessed a civil penalty "to vindicate the public interest." The Charging Party seeks $61,250.00 in tangible and intangible damages, a total of $20,000.00 in civil penalties, and certain injunctive relief.

Out of Pocket Losses

The Charging Party seeks reimbursement for the difference in rent between what the Millers paid at the Carlton and what they would have paid at the Casa Palameras. Damages are claimed to amount to $450.00 at $30.00 per month for the 15 months from March 1991 to June 1992.[9] However, no award of damages for any difference in rent may be made because there is no evidence of the rental rate for the available apartment at the Casa Palameras. The only evidence of record is the hearsay testimony of Ms. Miller that an unidentified woman told her that she was paying $350.00 a month. Even if that evidence were deemed competent, there is no evidence of the size, location, or amenities of the woman's apartment, or of the duration or date of inception of her lease. In short, there is nothing to show that the rental rate of her apartment necessarily reflected the rental rate of the available apartment.

The Charging Party also seeks damages based on Diane Miller's estimate that she spent $50.00 more per month on groceries, meals, and bus transportation than she would have spent had she had a kitchen for the 15 month period. Again, there is insufficient evidence to support the claim. The figure was offered as nothing more than an uncorroborated, offhand guess by Ms. Miller. It includes the cost of daily bus trips Ms. Miller took to areas outside of Palm Springs where she could find less expensive groceries.[10] However, the price of groceries in Palm Springs would have remained the

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[9] It is not clear from the brief how the 15 month period was derived. If the period runs from the beginning of March 1991 to the end of June 1992, then 16 months would have elapsed. Ms. Miller testified that she lived at the Carlton until July 1992. However, there is no evidence as to when any period of tenancy would have begun had Ms. Miller been able to rent an apartment at the Casa Palameras. In addition, because there is no evidence of the date any apartment at the Casa Palameras was available for tenancy, and because there is no evidence Ms. Miller attempted to mitigate damages by seeking comparable alternative housing after her encounters with Mr. Chamorro, any award for her claim for having to live in unsatisfactory housing, however crafted, cannot be measured and would be wholly speculative.

[10] I take official notice of the Sun Bus Rider's Guide that states the cash bus fare in Palm Springs as $.75; therefore, thirty round trips at $1.50 would alone amount to $45.00 per month. A Monthly Regular

same regardless of whether Ms. Miller had a kitchen in her apartment, and at least some of her transportation costs would still have been incurred even had she been able to rent the Casa Palameras apartment.

Emotional Distress Damages

The Charging Party seeks an award of $30,000.00 for emotional distress stemming from the Respondents' discrimination.[11] The Charging Party having failed to meet its burden of proving that Complainants suffered compensable emotional distress, I am constrained to award no damages for such claims.

Pass costs $28.00, and a Monthly Youth Pass costs $20.00. Sun Bus Rider's Guide, p. 3. The record does not indicate the frequency with which Ms. Miller's daughters accompanied her on her daily excursion, nor whether any of the Millers travelled on a monthly pass.

[11] The Charging Party also sought an award of "at least $30,000" for inconvenience, but failed to distinguish this form of damage from emotional distress. Because the Millers cannot be compensated twice for the same injury, any inconvenience they may have suffered will be considered in assessing their damage for emotional distress.

Proof of emotional distress is incapable of exact measurement, and such damage may be inferred from the circumstances of the discrimination, as well as established by testimony. *See HUD* ex rel. *Herron v. Blackwell*, 908 F.2d 864, 872-73 (11th Cir. 1990); *Block v. R.H. Macy & Co., Inc.*, 712 F.2d 1241, 1245 (8th Cir. 1983); *Seaton v. Sky Realty Co., Inc.*, 491 F.2d 634, 636 (7th Cir. 1974). However, the complainant cannot rest on merely conclusory statements, and must reasonably and sufficiently explain the circumstances of the injury. *United States v. Balistrieri*, 981 F.2d 916, 931-32 (7th Cir. 1992), *petition for cert. filed*, 61 U.S.L.W. 3742 (U.S. Apr. 19, 1993) (No. 92-1690).

The evidence of emotional distress damages is meager at best. Rather than painting a fully hued portrait of aggrieved parties set in the background of the circumstances, the record presents only the bare outline of a jigsaw puzzle, executed in sepia. Diane Miller testified that she felt sickened, angry and helpless as a result of being turned away by Mr. Chamorro. However, specific findings as to the circumstances of her encounters with Mr. Chamorro cannot be made, in large part because her testimony throughout the course of the hearing was inconsistent and contradictory. Most significantly, I am unable to conclude that Mr. Chamorro "slammed" a door in Ms. Miller's face or was otherwise rude to her. Accordingly, I cannot infer she suffered any injury as a result of his conduct.

Even if her testimony were to be fully credited, there is no evidence of the duration of any injury, or of the effect it may have had on her subsequent behavior or her relationship with her children or anyone else. She did testify to her general good health and that of her family. The evidence does not demonstrate that Ms. Miller's emotional state was any different after February 1991 than it was before that date. The only evidence of damage is her own conclusory testimony and the conclusory testimony of Conne that her mother "acted and sounded upset" after meeting Mr. Chamorro.

Conne Miller's testimony was also characterized by its generality. However, in its delivery, it was wooden rather than candid; scripted rather than spontaneous. Like her mother, she did not testify as to the duration of any injury, or the effect, if any, it had on her behavior or relationships. There was no corroborating testimony.

Lei Miller was named as an aggrieved party, but was too young to testify. No one else testified or presented any evidence whatsoever that she was damaged as a result of Respondents' actions. She attended the hearing, scampering about the courtroom as would any normal 5-year-old, oblivious to the subject matter of the proceeding.

Civil Penalties

The Charging Party asks that $20,000.00 in civil penalties be assessed against Respondents. Under the Act, an administrative law judge may assess a maximum civil penalty of $10,000.00 against each respondent, where, as here, there has been a finding of liability, but no history of any prior discriminatory acts. 42 U.S.C. § 3612(g)(3)(A).

Assessment of a civil penalty is not automatic. *See* H.Rep. No. 711, 100th

Cong., 2d Sess. at 37 (1988). In determining the amount of a penalty, an administrative law judge must consider the nature and circumstances of the violation, the degree of culpability, the financial circumstances of the respondent, the goal of deterrence, and other matters as justice may require. *Id*.

Both the owner of real estate and the manager of property are bound to know the law and to adhere scrupulously to its mandates. However, the record does not demonstrate an egregious violation of the Act. Prior to February 1991, there were children living at the Casa Palameras, and Mr. Chamorro had rented to children. (Tr. 157). His stated concern, unrebutted on the record, in renting to the Miller family was one of safety for Ms. Miller's then three-year-old daughter. There was no evidence that the violation was knowing or intentional. On the other hand, there is also no evidence that either Respondent took any cognizance of the Act in the conduct of their business. Accordingly, the goal of deterrence would be served by a modest civil penalty. Neither Respondent submitted any evidence to show that their financial condition would preclude them from paying a civil penalty. Upon consideration of the relevant factors, I conclude that Jaime Chamorro and Donald Bucha should each be assessed a civil penalty of $250.00.

Injunctive Relief

Once a determination of discrimination has been made, injunctive relief may be ordered to insure that Respondents do not violate the Act in the future. *HUD v. Blackwell*, 2 Fair Housing-Fair Lending (P-H) ¶ 25,001, at 25,014 (HUDALJ Dec. 21, 1989), *aff'd*, 908 F.2d 864, 872-73 (11th Cir. 1990). The relief, however, is to be molded to the specific facts of a particular situation. There is no evidence that either Respondent is now engaged in, or intends to engage in the sale or rental of residential property. However, the provisions of the Order set forth below will ensure against any future violations.

ORDER

Having concluded that Respondents Donald Bucha and Jaime Chamorro have violated 42 U.S.C. §§ 3604(a) and (c), it is hereby

ORDERED that:

1. Respondents Donald Bucha and Jaime Chamorro are permanently enjoined from discriminating against any other person with respect to housing because of familial status. Prohibited actions include, but are not limited to, those enumerated in 24 C.F.R. Part 100.

2. Within fifteen (15) days of the date on which this Order becomes final, Respondent Jaime Chamorro shall pay a civil penalty of $250.00 to the Secretary, United States Department of Housing and Urban Development.

3. Within fifteen (15) days of the date on which this Order becomes final, Respondent Donald Bucha shall pay a civil penalty of $250.00 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 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.

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ALAN W. HEIFETZ
Chief Administrative Law Judge