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CLERK US DISTRICT COURT  
DISTRICT OF NEVADA

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**UNITED STATES OF AMERICA,**

**CV-S-05-1276-RLH-PAL**

**Plaintiff,**

v.

**ZENITH OF NEVADA, INC., FORMERLY  
KNOWN AS PERMA-BILT, A NEVADA  
CORPORATION, AND RUTH OCHOA,**

**CIVIL COMPLAINT**

**Defendants.**

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3 **COMPLAINT**  
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7 The United States of America alleges:

8 NATURE OF ACTION

9 1. This action is brought by the United States to enforce the Fair Housing Act, Title VIII  
10 of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988,  
11 42 U.S.C. §§ 3601-3619 (the "Fair Housing Act").

12 JURISDICTION & VENUE

13 2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1345 and  
14 42 U.S.C. § 3612(o). Venue is proper in this jurisdiction pursuant to 42 U.S.C. § 1391(b) and  
15 42 U.S.C. § 3612(o) as defendants are located in this judicial district and the events or omissions  
16 giving rise to the claim occurred in this judicial district.

17 PARTIES

18 3. Defendant Zenith of Nevada, Inc., formerly known as Perma-Bilt, a Nevada  
19 Corporation ("Zenith") is a corporation having its principal places of business in Las Vegas,  
20 Nevada. Zenith is, or was at times relevant to this case, the owner, developer, and builder of the  
21 property located at 5966 Hopkinsville Lane, Las Vegas, Nevada ("the subject premises").

22 4. Defendant Ruth Ochoa was, at times relevant to this case, the Vice President for Sales  
23 and Marketing for Zenith in Las Vegas, Nevada.

24 5. The residential lot and single family dwelling located at the subject premises are  
25 "dwellings" within the meaning of 42 U.S.C. § 3602(b).  
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1 satisfied with this, they could terminate the contract and receive a refund of their deposit. On or  
2 about August 23, 2002, defendants decided to cancel the purchase agreement. On or about August  
3 23, 2002, Zenith's employee, Ken Mainwal, called the complainants to advise them that the  
4 defendants intended to cancel the purchase agreement and return their downpayment. On or about  
5 August 24, 2002, the complainants visited Mr. Mainwal to discuss the matter, but he confirmed  
6 that the defendants intended to cancel the purchase agreement because of defendants' concerns  
7 that the Evanses would sue them if the children became ill in the future.

8 12. On or about September 3, 2002, the defendants' attorney wrote to the complainants,  
9 canceling the contract and returning the complainants' downpayment. In the cancellation letter,  
10 the defendants' attorney stated "Perma-Bilt did not contemplate being required to build a  
11 completely mold-free or 'sterile' home to accommodate the hypersensitivity of your asthmatic  
12 children."

13 13. On or about September 4, 2002, the complainants' attorney, Richard Young, wrote to  
14 the defendants reiterating that the complainants did not wish to cancel their purchase agreement,  
15 but wanted only to have the mold tested to determine whether it was of a type to be concerned  
16 about, and to negotiate a reasonable resolution of the matter should it be necessary to "treat and  
17 seal" the affected area.

18 14. Despite complainants' efforts to negotiate a reasonable resolution, defendants  
19 proceeded with the cancellation of the purchase agreement and returned the complainants'  
20 downpayment.

21 15. On or about September 6, 2002, complainants timely filed a complaint with the  
22 Department of Housing and Urban Development ("HUD"), pursuant to the Fair Housing Act  
23 § 3610(a), alleging discrimination on the basis of disability.

24 16. As required by the Fair Housing Act §§ 3610(a) and (b), the Secretary of HUD  
25 conducted an investigation of the complaint and attempted conciliation without success. Based on  
26 the information gathered in this investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1),

1 determined that reasonable cause exists to believe that illegal discriminatory housing practices  
2 occurred. Therefore, on or about February 2, 2005, the Secretary issued a Determination of  
3 Reasonable Cause and a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2), charging  
4 defendants with engaging in discriminatory practices in violation of the Fair Housing Act.

5 17. On or about February 16, 2005, both the complainants and the defendants elected to  
6 have the claims asserted in HUD's Charge of Discrimination resolved in a federal civil action  
7 pursuant to 42 U.S.C. § 3612(a).

8 18. Following the Notice of Election, the Secretary of HUD authorized the Attorney  
9 General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

10 FAIR HOUSING ACT CLAIMS

11 19. By the actions and statements described in the foregoing paragraphs, defendants have:

- 12 a. discriminated against the complainants in the sale of a dwelling, or  
13 otherwise denied or made a dwelling unavailable, because of a  
14 handicap in violation of 42 U.S.C. § 3604(f)(1);
- 15 b. discriminated against the complainants in the terms, conditions, or  
16 privileges of the sale of a dwelling, or in the provision of services  
17 in connection with such dwelling because of a handicap in violation  
18 of 42 U.S.C. § 3604(f)(2); and
- 19 c. discriminated against complainants by making unavailable a  
20 residential real estate-related transaction, and have discriminated in  
21 the terms or conditions of such a transaction in violation of 42  
22 U.S.C. § 3605.
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1 20. Complainants are aggrieved persons, as defined in 42 U.S.C. § 3602(i), and have  
2 suffered damages as a result of the defendants' discriminatory conduct as described above.

3 21. Defendants' actions and statements described in the preceding paragraphs were  
4 intentional, willful, and taken in disregard for the fair housing rights of Candra, Terrell, Skylar,  
5 and Madison Evans.

6 PRAYER FOR RELIEF

7 WHEREFORE, the United States prays for relief as follows:

8 1. A declaration that the conduct of defendants as set forth above violates the Fair  
9 Housing Act §§ 3601, et seq.

10 2. An injunction against defendants, their agents, employees, and successors, and all other  
11 persons in active concert or participation with any of them, from discriminating on the basis of  
12 disability in violation of the Fair Housing Act §§ 3601, et seq.; and


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1 3. An award of monetary damages to the Evanses, pursuant to 42 U.S.C. §§ 3612(o)(3) and  
2 3613(c)(1).


3 The United States further prays for such additional relief as the interests of justice may  
4 require.


5 Dated: October 21, 2005


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