

**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 [REDACTED]
[REDACTED] and their minor children,

Charging Parties,

v.

FHEO No. 04-06-0723-8

Christopher S. Hebert and Indigo
Investments, LLC d/b/a Homestead Mobile
Home Village, Edward L. Hamilton and
Barbara A. Hamilton,

Respondents.

CHARGE OF DISCRIMINATION

I. JURISDICTION

On May 4, 2006, [REDACTED] and [REDACTED] aggrieved persons, filed a verified complaint (the HUD Complaint)¹ with the U.S. Department of Housing and Urban Development (HUD), on behalf of themselves and their minor children, alleging that Christopher S. Hebert, Indigo Investments, LLC, Edward L. Hamilton and Barbara A. Hamilton, violated the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3601 *et seq.* (the Act or Fair Housing Act), by denying and/or making housing unavailable, applying discriminatory rental terms and conditions, and engaging in intimidation and harassment because of race and/or color in violation of 42 U.S.C. § 3604(a), (b) and § 3617.²

The Act authorizes the issuance of a Charge of Discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C.

¹ The HUD Complaint alleged that Respondents Edward and Barbara Hamilton violated Section 804(b) of the Act and it was served on May 4, 2006. The HUD complaint was amended by FHEO in April 2006 to add Christopher S. Hebert, one of the owners of record, as a respondent and it was served on June 24, 2006. On January 24, 2008, FHEO amended the HUD complaint a second time to add a Section 804(a) violation and on November, 10, 2008, amended it a third time to add Respondent Indigo Investments, LLC, another owner, as a respondent. The amended complaint was served on January 26, 2009.

² FHEO issued a Determination of No Reasonable Cause with regard to the allegations of discrimination against Respondent Gary Sinopoli.

§ 3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has redelegated to the Regional Counsel (73 Fed Reg. 68441-68442), the authority to issue such a Charge, following a determination of reasonable cause by the Assistant Secretary for the Office of Fair Housing and Equal Opportunity (FHEO) or her or his designee. The Assistant Secretary for FHEO has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case because of race and/or color and has authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS THAT SUPPORT THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondents Christopher S. Hebert, Indigo Investments, LLC, Edward L. Hamilton and Barbara A. Hamilton are all charged with discriminating against Complainants ██████████ and ██████████ and their minor children, all aggrieved persons, as defined by 42 U.S.C. § 3602(i), because of race and/or color in violation of 42 U.S.C. § 3604(a), (b) and § 3617, as follows:

1. It is unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race and/or color. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60 (a) and (b)(5) and § 100.70 (a)-(b) and (c)(2) (2008).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race and/or color. 42 U.S.C. § 3604(b); 24 C.F. R. § 100.65(a) and (b)(4).
3. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part. 42 U.S.C. § 3617; 24 C.F.R. § 100.400 (b) and (c)(2).
4. Complainant ██████████ ("Mrs. ██████████ and Complainant ██████████ ("Mr. ██████████ are African American (Black). The ██████████ ("Complainants") are married and the parents of five (5) children who are all under the age of eighteen and live with them.
5. At all times relevant to the allegations of this Charge, Complainants and all of their children resided in a trailer on Lot #87, located in Homestead Mobile Home Village, 19061 Highway 53, Gulfport, Harrison County, MS ("Homestead" or "subject property"). Complainants home, at Lot # 87, is a "dwelling" as defined by the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

6. At all times relevant to the allegations of this Charge, the subject property consisted of 98 mobile home lots. The U.S. Department of Homeland Security, Office of Federal Emergency Management Assistance (FEMA), rented 54 of the 98 lots from Respondents for use by designated Hurricane Katrina survivors.
7. At all times relevant to the allegations in this Charge, Respondent Indigo Investments, LLC ("Indigo"), a Mississippi limited liability company, was the record owner of the subject property.
8. At all times relevant to the allegations in this Charge, Respondent Christopher S. Hebert ("Hebert"), a Caucasian (White) male, was also an owner of the subject property. He also controlled the operation of the subject property, hired its property managers and authorized them to act on behalf of the owners of Homestead.
9. At all times relevant to the allegations in this Charge, Respondent Edward Hamilton ("Mr. Hamilton"), a Caucasian (White) male, was one of the onsite property managers who was employed by Respondents Indigo and Hebert. Mr. Hamilton was duly authorized to act as Respondent Indigo's and Respondent Hebert's management agent for the subject property. Mr. Hamilton managed the day-to-day operations of Homestead, including, but not limited to, handling maintenance, issuing and enforcing warnings for rule violations and Respondents' policies and procedures, serving eviction notices, and otherwise handling the eviction process.
10. At all times relevant to the allegations in this Charge, Respondent Barbara Hamilton ("Mrs. Hamilton"), a Caucasian (White) female, was one of the onsite property managers who was employed by Respondents Indigo and Hebert. Mrs. Hamilton was duly authorized to act as Respondent Indigo's and Respondent Hebert's management agent for the subject property. Mrs. Hamilton managed the day-to-day operations of Homestead, including, but not limited to, issuing and enforcing warnings for rule violations and Respondents' policies and procedures, serving eviction notices, and otherwise handling the eviction process.
11. In August 2005, Complainants and their children were displaced by Hurricane Katrina.
12. On November 16, 2005, Mrs. ██████████ signed a lease with FEMA and she and her family moved into a FEMA trailer at Lot #87 in Homestead.
13. Respondents' records established that there were little to no non-white residents at the subject property prior to FEMA's African American (Black) residents moving in.
14. Upon arrival at Homestead, Mrs. ██████████ received and signed a copy of Respondents' Park Rules. These Park Rules included the following provision: "THE SPEED LIMIT IS 10 MPH. THERE ARE NO EXCEPTIONS TO THIS RULE. IF

YOU RECEIVE (3) WRITTEN WARNINGS DUE TO YOUR SPEEDING OR YOUR COMPANIES [sic] SPEEDING YOU WILL FACE EVICTION."

15. The Hamiltons issued oral and written warnings for speeding violations to residents based solely on their observations and/or impressions of speed and/or that of their employees and agents.
16. Respondents' Park Rules also listed two other rule violations that could result in eviction: (a) the receipt of three written warnings for failing to use the proper dumpster; and/or (b) allowing a guest to occupy the residence for more than two (2) days without having the guest sign in with management. Unlike speeding, neither offense mandated eviction after three written warnings.
17. In November 2005, approximately one week after Complainants moved into Lot # 87, Complainants had their first contact with Mrs. Hamilton when she banged on their door and accused Complainants' son of telling her teen-aged daughter to "shut up" after the girl told the boy not to throw trash in a particular dumpster. Complainants' sons both denied having any contact with the girl. The dumpsters had no markings indicating which one was to be used by residents. Mrs. Hamilton never identified which son the accusation was referring to and did not issue a written warning. She did remind Mrs. ██████████ of her power to evict residents.
18. A Caucasian (White) resident who lived directly behind Complainants stated that sometime in November or December of 2005, shortly after Complainants and other African American (Black) families moved into Homestead, Mr. Hamilton told him: "These Niggers, I want to get them out of the park because they are just thieving." This same resident told Mr. ██████████ that the Hamiltons did not like blacks and wanted to get them out of the park.
19. On March 3, 2006, as Mrs. ██████████ was beginning to drive through the park heading for work, Mrs. Hamilton approached her car and accused her of speeding. At the entrance to the subject property, there is a stop sign, two speed bumps and Respondents' office.
20. On March 4, 2006, Complainants hosted a barbeque for their family and approximately six guests at their home. The guests arrived in two cars. Throughout the day, Complainants and some of their guests had altercations with the Hamiltons and their employees and agents. Some of those altercations were about speeding. Complainants called the police to report the altercations.
21. On March 4, 2006, the Hamiltons called the police and reported Complainants and one of the guests for alleged violation of the park's rules. One of the responding officers found no grounds to take any action against the guest and, instead, told the guest to go on to the party.

22. One of Complainants' guests, an African American (Black) female, stated that before the barbeque was over, Mrs. Hamilton told her "they didn't belong out there" and they "didn't want her kind there."
23. Although the Hamiltons stated that during the barbeque, three neighbors complained to them about noise at the Complainants' home and two of those neighbors also complained that Complainants' guests were speeding, the Hamiltons did not notify Complainants during the barbeque of any alleged complaints.
24. On March 8, 2006, four days after the barbeque, the Hamiltons posted a Thirty-Day Notice to Vacate on Complainants' door. The notice to vacate had three written violations for speeding that were dated March 4, 2006 attached to it. The first written warning was for speeding, the second was for speeding, loud music, and threatening park employees with violence and the third was for speeding and disturbing the peace. Respondents' written notations on the notice and/or warnings stated that the police had been called or that Complainants' guests had threatened them or others.
25. Between March 8, 2006 and April 25, 2006, the Hamiltons continued to harass Complainants by following Mrs. ██████████ car, driving by Complainants' home and accusing Mrs. ██████████ of speeding and of other violations of the park rules. No proof of speeding or other infractions was provided.
26. After posting the notice to vacate on March 8, 2006, Mr. Hamilton would drive by and look at Complainants in a way that made them fear for their safety.
27. An eviction hearing was held on April 25, 2006 in a Harrison County Justice Court. The presiding judge dismissed the action without prejudice and refused to evict any FEMA tenants without authorization from FEMA.
28. From April to May 2006, the Hamiltons continued to harass and intimidate Complainants by tailgating Mrs. ██████████ car, driving by their home and looking at them in a way that frightened them and falsely accusing them of additional violations of the park rules.
29. During May 2006, Complainants had to contact the police because one of Respondents' male employees and/or agents harassed and intimidated Complainants' minor daughter by telling her to "get her stupid ass out of [his] yard. Take her stupid ass home."
30. Mr. ██████████ began leaving work and coming home early to watch out for his family. Complainants advised FEMA that they feared for their safety. On May 26, 2006 FEMA transferred Complainants to another FEMA location.

31. From May 3-8, 2006, the Gulf Coast Fair Housing Center ("GCFHC") conducted testing for housing discrimination at Homestead. Testing is a simulation of a housing transaction that compares responses given by housing providers to different types of prospective housing renters or buyers to determine whether illegal discrimination has occurred. The testing indicated that only the white tester was told rental housing was available and was shown a dwelling.
32. In July 2006, an African American (Black) female resident who feared for her safety and that of her family left Homestead after Mr. Hamilton told her: "I'm a redneck from Alabama. If someone messes up out here, I'll buy some chains and there's a pond back there and they will be found missing."
33. Complainants were the only residents who received an eviction notice based on three written notices that were all issued on the same date.
34. Respondents did not issue eviction notices or have eviction hearings scheduled for two Caucasian (White) FEMA residents who had three (3) or more speeding violations.
35. Respondents did not have an eviction hearing scheduled for or evict a Caucasian (White) resident who received six written notices, including four speeding notices over a month long period and an eviction notice on the same day that Complainants received an eviction notice.
36. Complainants and their minor children have suffered significant damages, including, but not limited to, economic loss, including expenses and other costs associated with physical and emotional distress, substantial inconvenience, embarrassment, humiliation, and the loss of a housing opportunity as a result of Respondents' discriminatory conduct.
37. As described above in the paragraphs 14 - 25, Respondents Indigo, Hebert, Edward Hamilton and Barbara Hamilton denied or otherwise made housing unavailable because of race and/or color in violation of 42 U.S.C. § 3604(a).
38. As described above in the paragraphs 14 - 25, Respondents Indigo, Hebert, Edward Hamilton and Barbara Hamilton applied and enforced discriminatory terms and conditions regarding the rental of a dwelling because of race and/or color in violation of 42 U.S.C. § 3604(b).
39. As described above in paragraphs 25 - 32, Respondents Indigo, Hebert, Edward Hamilton and Barbara Hamilton intimidated and harassed Complainants because of race and/or color in violation 42 U.S.C. § 3617.

III. CONCLUSION

Wherefore, the Secretary of HUD, through the Office of General Counsel, and pursuant to 42 U.S.C. §§ 3610(g)(2)(A) and (g)(3), hereby charges Respondents Hebert, Indigo, Edward Hamilton and Barbara Hamilton with engaging in discriminatory housing practices as set forth above, and prays that an order be issued that:

A. Declares that Respondents' discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and the Act's implementing regulations;

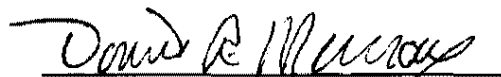
B. Enjoins Respondents and Respondents' agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating against any person because of race, color, sex, national origin, familial status, religion, sex and/or disability in any aspect of the rental, sale, occupancy, use or enjoyment of a dwelling;

C. Awards such monetary damages as will fully compensate Complainants and their minor children for their economic losses, including but not limited to, all out-of-pocket and medical expenses and emotional and physical distress, embarrassment, humiliation, substantial inconvenience and loss of a housing opportunity, and any and all other damages caused by Respondents' discriminatory conduct;

D. Awards an \$11,000 civil penalty against each Respondent for each violation of the Act; and

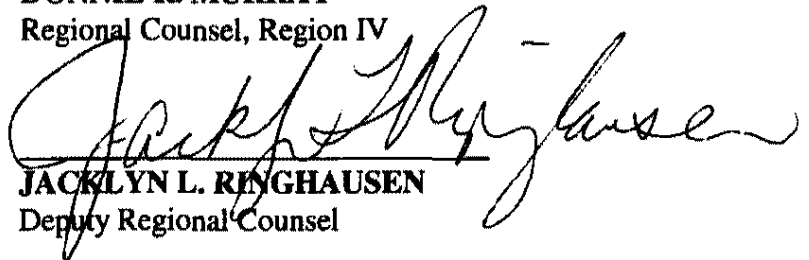
E. Awards such additional relief as may be appropriate pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



DONNIE R. MURRAY

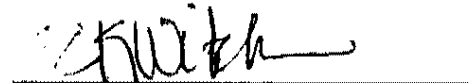
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