

# SUMMONS ISSUED

SLR:MJG:SDE

(SE-3349)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

ROBERTO TRISTAINO and  
METRO NET REALTY, LLC,

Defendants.

**FILED**

IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y. CV-11

★ NOV 17 2011 ★

BROOKLYN OFFICE COMPLAINT

(IRIZARRY, J.)

Civil Action No. AZRACK, M.J.

Plaintiff United States of America, by its attorney, LORETTA E. LYNCH, United States Attorney for the Eastern District of New York, Seth D. Eichenholtz, Assistant United States Attorney, of counsel, for its complaint against defendants herein, alleges as follows:

### INTRODUCTION

1. This is an action brought by the United States to enforce the provisions of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 through 3619 (the FHA). As set forth below, defendants violated the FHA's prohibition against discriminatory statements by stating in an advertisement on the Craigslist website that an apartment was available only to "[m]ature couple or single with no children."

2. The United States brings this action on behalf of Complainant National Fair Housing Alliance (NFHA) pursuant to 42 U.S.C. § 3612(o).

### JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 3612(o).

### PARTIES

5. Plaintiff is the United States of America.

6. Defendant Metro Net Realty, LLC is a real estate agency licensed to do business in the State of New York, with its principal place of business located at 159-35 102<sup>nd</sup> Street, Howard Beach, New York.

7. In or around September and October 2008, defendant Robert Tristaino was a New York State real estate salesperson affiliated with defendant Metro Net Realty, LLC.

8. Complainant National Fair Housing Alliance (NFHA) is a non-profit fair housing advocacy and counseling organization, headquartered at 1101 Vermont Avenue, NW, Suite 710, Washington, DC 20005, that is dedicated to promoting equal opportunity in housing. NFHA works to eliminate housing discrimination and to ensure equal housing opportunities throughout the United States by engaging in a variety of counseling, educational and referral services, as well as by conducting fair housing testing.

### FACTS

9. On September 22, 2008, NFHA discovered an internet advertisement posted by defendants on the Craigslist website for a two-bedroom rental apartment in Bergen Beach, a neighborhood in Brooklyn, New York.

10. The referenced apartment is a “dwelling” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

11. The advertisement stated the following:

*\$1400 / 2br – Close to Bus, Great Space, Large 2bdrms Great Area, (\*\*\*)SEE PICS(\*\*\*)SEE PICS\*BERGEN BEACH). ASKING ONLY \$1400...Large 2*

*Bedroom Apt Located on a Beautiful Tree Lined Block in Heart of Bergen Beach. Second Floor apt with private entrance. Huge kitchen with plenty of cabinet space...extra large living room and dining room. Master Bed with Walk in closet. Spacious Bathroom...Close to Bus stop, resturants (sic) and Shopping Malls. Home Owner Is Great with positive upbeat attitude..This apartment wont (sic) last. Please Call Agent Rob 1-718-696-8217. LOOKING FOR:: Mature couple or single with no children .. and no dogs or cats. Credit and background check required. Listed by: metronet (sic) realty.*

12. On October 30, 2008, NFHA discovered the same rental advertisement posted by defendants on the same website. Again, the advertisement sought to rent the two bedroom apartment to a “[m]ature couple or single with no children.”

13. Both advertisements were posted by defendant Tristaino while he was employed by defendant Metro Net Realty, LLC.

14. On or about May 22, 2009 and May 26, 2009, NFHA filed timely, verified complaints with the U.S. Department of Housing and Urban Development (HUD) alleging that defendants violated the Fair Housing Act by posting advertising that discriminated on the basis of familial status.

15. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD (the Secretary) conducted an investigation of NFHA’s complaints, attempted conciliation without success and prepared a final investigative report.

16. Based on the information gathered in the HUD investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that defendants engaged in discriminatory housing practices in violation of the Fair Housing Act.

17. On September 28, 2011, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging defendants with engaging in discriminatory housing practices in violation of the Fair Housing Act.

18. NFHA elected to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a). Following this election, pursuant to 42 U.S.C. § 3612(o)(1), the Secretary authorized the Attorney General to file this action on behalf of NFHA.

#### **VIOLATIONS OF LAW**

19. Through the actions described above, defendants have violated the Fair Housing Act, 42 U.S.C. § 3604 (c), by making, printing or publishing, or causing to be made, printed or published a notice, statement or advertisement with respect to the rental of a dwelling that indicates a preference, limitation or discrimination based on familial status, or an intention to make any such preference, limitation or discrimination.

20. NFHA is an aggrieved person as defined in 42 U.S.C. § 3602(i), in that defendants' discriminatory advertisement has interfered with NFHA's efforts and programs that are intended to bring about the equality of opportunity in housing and forced it to devote scarce resources to identify and counteract defendants' unlawful housing practices, thereby diverting time and money from its other functions and goals.

21. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of NFHA.

#### **REQUEST FOR RELIEF**

WHEREFORE, the United States of America respectfully requests that this Court:

A. Declare that the discriminatory housing practices of defendants, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;

B. Enjoin and restrain defendants, their agents, employees, and successors, and all others in concert with them, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1), from:

1. making, printing, or publishing, or causing 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 familial status or an intention to make such preference, limitation, or discrimination; and
2. Failing or refusing to take such actions as may be necessary to prevent the recurrence of any such discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of defendants' unlawful conduct;

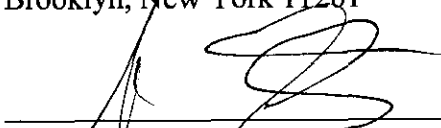
D. Award monetary damages to NFHA pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

E. Grant the United States such other and further relief as is just and proper.

Dated: Brooklyn, New York  
November 17, 2011

LORETTA E. LYNCH  
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Eastern District of New York  
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By: \_\_\_\_\_

  
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