

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 (1) ROSEMARIE PELFREY, as Trustee)
 of the W. Ray Pelfrey Revocable Trust,)
 dated March 1, 2002, d/b/a Pelfrey)
 Rentals, as Trustee of the Rosemarie)
 Pelfrey Revocable Trust, dated)
 March 1, 2002, d/b/a Pelfrey Rentals,)
 and as Personal Representative of the)
 Estate of Walter Ray Pelfrey;)
 (2) OMEGA ENTERPRISES, LLC; and)
 (3) PELFREY INVESTMENT)
 COMPANY, LLC,)
)
 Defendants.)
 _____)

Civil Action No. 5:18-cv-000945-HE

Demand for Jury

AMENDED COMPLAINT

The United States of America alleges as follows:

1. This action is brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended, 42 U.S.C. §§ 3601, *et seq.*

JURISDICTION AND VENUE

2. This court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345; 42 U.S.C. § 3614(a); and 28 U.S.C. §§ 2201 and 2202.

3. Venue is proper in this district under 28 U.S.C. § 1391(b) because the claims alleged herein occurred in the Western District of Oklahoma, and the Defendants reside or do business in the Western District of Oklahoma.

THE PARTIES

4. Walter Ray Pelfrey, commonly known as Ray Pelfrey, (“Pelfrey” or “Walter Pelfrey”) was a resident of Oklahoma County, Oklahoma. Until his death on July 15, 2018, Pelfrey owned or operated dozens of rental dwellings throughout the Western District of Oklahoma. Walter Pelfrey was liable for the discriminatory housing practices described in paragraphs 9-26. Upon his death, that liability was assumed by the Estate of Walter Ray Pelfrey. Rosemarie Pelfrey is the administrator of the will of Walter Ray Pelfrey and is, therefore, the Personal Representative of the Estate of Walter Ray Pelfrey pursuant to Okla. Stat. Ann. Tit. 58, § 58-11.

5. Defendant Rosemarie Pelfrey is a resident of Oklahoma County, Oklahoma. Since at least March 20, 2013, Defendant Rosemarie Pelfrey has served and continues to serve as trustee of the W. Ray Pelfrey Revocable Trust, dated March 1, 2002. Prior to his death on July 15, 2018, Walter Pelfrey served as trustee of the W. Ray Pelfrey Revocable Trust, dated March 1, 2002. At all times relevant to this complaint, this trust held title to many of the properties described herein, though Walter Pelfrey, in his capacity as trustee, remained the beneficial owner of the trust and controlled rental dwellings throughout the Western District of Oklahoma. This trust does business as Pelfrey Rentals.

6. Defendant Rosemarie Pelfrey, as trustee of the Rosemarie Pelfrey Revocable Trust, dated March 1, 2002, owns or operates rental dwellings throughout the

Western District of Oklahoma. At all times relevant to this complaint, this trust held title to many of the properties described herein. The trust does business as Pelfrey Rentals.

7. Defendant Omega Enterprises, LLC is an inactive limited liability corporation whose business address is 4000 Tinker Diagonal in Del City, Oklahoma. Walter Pelfrey was the registered agent and managing member of Omega Enterprises, LLC.

8. Defendant Pelfrey Investment Company, LLC is an inactive limited liability corporation whose business address is 3280 Del Mar Road in Del City, Oklahoma. Walter Pelfrey was the registered agent and managing member of Pelfrey Investment Company, LLC.

FACTUAL ALLEGATIONS

9. Since at least 2001 through 2017, Walter Pelfrey, along with the named Defendants, have owned or operated a residential rental business in or around Oklahoma City, Oklahoma. The Defendants currently own approximately eighty-one residential properties in the Oklahoma City area. The rental properties (the “subject properties”) include row houses, single-family homes, single-family homes with more than one rental unit inside, and multi-family apartments.

10. At all times relevant to this action, Walter Pelfrey controlled all aspects of the management of each subject property, including, but not limited to, advertising vacancies, accepting or rejecting prospective tenants, setting rates for rent and security

deposits, collecting rent, accepting requests for repairs, communicating with tenants regarding late rental payments, and evicting tenants.

11. Defendant Rosemarie Pelfrey, as trustee of the W. Ray Pelfrey Revocable Trust, dated March 1, 2002, and as trustee of the Rosemarie Pelfrey Revocable Trust, dated March 1, 2002, expressly or implicitly granted Walter Pelfrey authority to act as an agent on her behalf at all times relevant to this action.

12. Defendant Omega Enterprises, LLC, as owner, officer, partner, or principal, expressly or implicitly granted Walter Pelfrey authority to act as an agent on its behalf at all times relevant to this action.

13. Defendant Pelfrey Investment Company, LLC, as owner, officer, partner, or principal, expressly or implicitly granted Walter Pelfrey authority to act as an agent on its behalf at all times relevant to this action.

14. The subject properties are dwellings within the meaning of 42 U.S.C. § 3602(b).

15. Since at least 2001 through 2017, the Defendants, through the actions of Walter Pelfrey, have subjected female tenants and prospective female tenants of the subject properties to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment, on multiple occasions. Walter Pelfrey's conduct has included, but is not limited to:

- a. Demanding that female prospective tenants engage in, or pressuring them to engage in, sexual intercourse, oral sex, or other sexual acts with him in

order to obtain rental housing, including while in the process of showing them potential rental units;

- b. Demanding that female tenants engage in, or pressuring them to engage in, sexual intercourse, oral sex, or other sexual acts with him in order to obtain or keep rental housing;
- c. Subjecting female tenants and prospective female tenants to unwelcome sexual contact, including grabbing their breasts, thighs, and buttocks without their consent;
- d. Exposing or touching himself in a sexual manner in the presence of female tenants and prospective female tenants;
- e. Frequently making unwelcome sexual comments and unwelcome sexual advances to female tenants and prospective female tenants;
- f. Making intrusive, unannounced visits to female tenants' homes to conduct and further his sexual advances;
- g. Seizing the personal property of female tenants and their children in retaliation for the tenants' failure or refusal to engage in sexual intercourse or other sexual acts;
- h. Conditioning or offering to grant tangible housing benefits—such as reducing the rent, overlooking or excusing late or unpaid rent, providing access to housing, and forestalling or terminating eviction proceedings—in exchange for engaging in sexual acts with him; and

- i. Taking adverse housing actions, such as threatening to evict or evicting, against female tenants who have objected to or would not continue to engage in sexual acts.

16. For instance, in approximately the summer of 2008, one female tenant, after a period of homelessness, rented a property from Walter Pelfrey, who repeatedly asked her to engage in sexual acts. After she rebuffed his advances, Pelfrey would come to the house unannounced and let himself in with his key. When she fell behind on rent, Pelfrey requested that she “put out” and perform oral sex in exchange for waiving her debt. Because she felt she had no other option, she did. When she refused to continue to engage in sexual acts with him, Pelfrey initiated eviction proceedings against her, purportedly for her failure to pay her utilities.

17. In approximately the summer of 2012, a prospective female tenant went with Walter Pelfrey to view one of the rental properties he operated. When she protested the condition of the house, he offered to let her live there rent free if she cleaned the house and engaged in sexual acts with him, including performing oral sex. He later offered her a different home if she engaged in sexual intercourse with him, offering to waive the security deposit and her first month’s rent. Because Pelfrey made the rental of his properties contingent on providing him sexual favors, she decided not to rent from him.

18. In yet another instance, from approximately February through October of 2015, one female tenant rented a Pelfrey-operated property with her fiancé. A few

months into her tenancy, her fiancé and Walter Pelfrey became friendly. Pelfrey, in her presence, offered to pay her fiancé so he could have sexual intercourse with her. Pelfrey continued to make unwelcome sexual comments to her, including asking whether she could “feel his ghost in bed with her,” and making other sexually explicit and graphic statements that referred to his engaging in sexual acts with her. Because of these comments, she changed the locks on her home. When Pelfrey discovered the locks had been changed, he initiated eviction proceedings against her and her fiancé.

19. The experiences of these three women were not isolated instances. Rather, these were part of Walter Pelfrey’s longstanding pattern or practice of illegal sexual harassment of female tenants and prospective female tenants.

20. The discriminatory incidents described herein occurred while Walter Pelfrey was exercising his authority as owner, principal, trustee, agent, or operator of the subject properties.

21. Defendants Rosemarie Pelfrey, as Trustee of the W. Ray Pelfrey Revocable Trust, dated March 1, 2002, and as Trustee of the Rosemarie Pelfrey Revocable Trust, dated March 1, 2002; Omega Enterprises, LLC; and Pelfrey Investment Company, LLC are vicariously liable for the actions of Walter Pelfrey. Walter Pelfrey acted as an agent of the other Defendants. These Defendants knew or should have known of Pelfrey’s discriminatory conduct, had the authority to take preventative and corrective action, and failed to take reasonable preventative or corrective measures.

22. The above-described actions and conduct of Walter Pelfrey caused female tenants and prospective female tenants to suffer physical harm, fear, anxiety, and emotional distress, and inhibited their ability to secure housing for themselves and their families.

CAUSE OF ACTION

23. By the actions and statements described above, the Defendants have:
- a. Refused to sell or rent after the making of a bona fide offer, or refused to negotiate for the sale or rental of, or otherwise made unavailable or denied, a dwelling to persons because of sex, in violation of 42 U.S.C. § 3604(a);
 - b. Discriminated in the terms, conditions, or privileges of the rental of dwellings, or in the provision of services or facilities in connection therewith, because of sex, in violation of 42 U.S.C. § 3604(b);
 - c. Made statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on sex, in violation 42 U.S.C. § 3604(c); and
 - d. Coerced, intimidated, threatened, or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights granted or protected by Section 804 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.
24. The Defendants' conduct described above constitutes:

- a. A pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*; or
- b. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*, which denial raises an issue of general public importance.

25. Female tenants, prospective tenants, and persons associated with them have been injured by the Defendants' discriminatory conduct. Such persons are aggrieved persons as defined in 42 U.S.C. § 3602(i), and have suffered damages as a result of the Defendants' conduct.

26. The Defendants' conduct was intentional, willful, or taken in reckless disregard of the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States requests that the Court enter an Order that:

- a. Declares that the Defendants' discriminatory practices violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*;
- b. Enjoins the Defendants, their agents, employees, and successors, and all other persons in the active concert or participation with them from:
 - i. Discriminating on the basis of sex, including engaging in sexual harassment, in any aspect of the rental of a dwelling;

- ii. Interfering with or threatening to take any action against any person engaged in the exercise or enjoyment of rights granted or protected by the Fair Housing Act, as amended;
 - iii. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Defendants' past unlawful practices to the position they would have been in but for the discriminatory conduct; and
 - iv. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, as nearly as practicable, the effects of the Defendants' unlawful practices;
- c. Awards such preventive relief, including a permanent or temporary injunction, restraining order, or other order against Defendants for a violation of the Fair Housing Act, as amended, pursuant to 42 U.S.C. § 3614(d)(1)(A);
 - d. Awards monetary damages to each person aggrieved by Defendants' discriminatory conduct, pursuant to 42 U.S.C. § 3614(d)(1)(B);
 - e. Assesses civil penalties against the Defendants in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(c); and
 - f. Awards such additional relief as the interests of justice may require.

Dated: November 21, 2018

ROBERT J. TROESTER
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s/ Daniel Card

(Signed by Filing Attorney with
permission of Attorney)

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Respectfully submitted,

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