

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
BOWLING GREEN DIVISION
(Filed Electronically)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL ACTION NO. <u>1:20-cv-54-GNS</u>
)	
v.)	
)	COMPLAINT
CHESTER GORDON WHITESCARVER)	and
and BETSY WHITESCARVER,)	JURY DEMAND
)	
Defendants.)	
_____)	

The United States of America alleges as follows:

1. The United States brings this action to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §§ 3601, *et seq.* (“Fair Housing Act”).

JURISDICTION AND VENUE

2. The Court has jurisdiction over this action, under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3614(a).

3. Venue is proper in this district, under 28 U.S.C. § 1391(b), because the actions and omissions giving rise to the United States’ allegations occurred in the Western District of Kentucky, and the Defendants reside in the Western District of Kentucky.

FACTUAL ALLEGATIONS

4. Defendants Chester Gordon Whitescarver and Betsy Whitescarver are a married couple that resides in Russellville, Kentucky.

5. During part or all of the period of time relevant to this action, Defendants Chester Gordon Whitescarver and Betsy Whitescarver have co-owned and managed at least thirteen residential rental properties in or around Russellville, Kentucky (the “subject properties”).

6. The subject properties include single-family homes and mobile homes.

7. The subject properties include, but are not limited to, the following properties in Russellville, Kentucky: 678 East Fourth Street, 633 West Seventh Street, 619 Clara Drive, 621 Clara Drive, 623 Clara Drive, and 1416 Nashville Street.

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

9. At all times relevant to this action, Defendant Chester Gordon Whitescarver has been actively involved in the management of the subject properties, including, but not limited to, showing the properties to prospective tenants, collecting rent, handling maintenance requests, communicating with tenants regarding late payments, initiating eviction proceedings, and taking back control of the properties after tenants are evicted.

10. At all times relevant to this action, Defendant Betsy Whitescarver has been actively involved in the management of the subject properties, including, but not limited to, collecting rent, communicating with actual and prospective tenants, and serving tenants with notices to vacate.

11. At all times relevant to this action, Defendant Chester Gordon Whitescarver has had the authority to act on behalf of Defendant Betsy Whitescarver in the management and operation of the subject properties.

12. Since at least 2012, and as recently as 2018, Defendant Chester Gordon Whitescarver has subjected female tenants of the subject properties to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment, on multiple occasions. Such conduct has included, but is not limited to:

- a. Making unwelcome sexual comments and sexual advances to female tenants;
- b. Entering the homes of female tenants without their consent;

- c. Touching female tenants on their breasts, buttocks, and vaginas without their consent;
- d. Kissing female tenants without their consent;
- e. Offering to grant tangible housing benefits — such as reducing the rent and overlooking or excusing late or unpaid rent — to female tenants in exchange for sexual favors; and
- f. Taking adverse housing actions — such as filing eviction actions, or threatening to do so — against female tenants who objected to and/or refused his sexual advances.

13. For example, in approximately 2018, Defendant Chester Gordon Whitescarver subjected a female tenant to unwelcome sexual comments and repeatedly entered her home without her consent. He touched her buttocks and breasts and kissed her neck, all without her consent. When Defendant Chester Gordon Whitescarver learned that the tenant planned to contact the police, he threatened to evict her. After the tenant contacted the police, and a police officer questioned Defendant Chester Gordon Whitescarver about the tenant's allegations in Defendant Betsy Whitescarver's presence, Defendant Betsy Whitescarver personally delivered the tenant's notice to vacate. Defendant Chester Gordon Whitescarver subsequently filed an eviction action against the tenant.

14. In another example, in approximately 2012, Defendant Chester Gordon Whitescarver subjected two female tenants to unwelcome sexual comments and repeatedly entered their home without their consent, once while they were sleeping. Defendant Chester Gordon Whitescarver subjected one of the female tenants to unwanted sexual touching, unwanted kissing, and offered her reduced rent in exchange for sexual favors. After the tenants

contacted the police, and a police officer questioned Defendant Chester Gordon Whitescarver about the tenants' allegations in Defendant Betsy Whitescarver's presence, Defendant Betsy Whitescarver called one of the tenants and told her she would "get what's coming to [her]," or words to that effect. Defendant Chester Gordon Whitescarver subsequently filed an eviction action against the tenants.

15. The experiences of these women were part of Defendant Chester Gordon Whitescarver's longstanding pattern and practice of illegal sexual harassment of female tenants.

16. By at least 2012, Defendant Betsy Whitescarver was on notice that female tenants were alleging that her husband was sexually harassing them.

17. Defendant Betsy Whitescarver took no action to stop or curtail her husband's sexually harassing behavior.

18. On at least two occasions, in approximately 2012 and 2018, Defendant Betsy Whitescarver threatened and/or retaliated against female tenants who alleged that her husband was sexually harassing them.

19. Defendant Betsy Whitescarver is directly liable for her own discriminatory conduct and vicariously liable for her husband's discriminatory actions, all of which occurred while he was exercising his authority as her agent.

CAUSE OF ACTION

20. By the actions and statements described above, the Defendants have:

- a. Denied dwellings or otherwise made dwellings unavailable 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, a limitation, or discrimination based on sex, in violation of 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 the Fair Housing Act, in violation of 42 U.S.C. § 3617.

21. Under 42 U.S.C. § 3614(a), the Defendants' conduct constitutes:

- a. A pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act, and
- b. A denial to a group of persons of rights granted by the Fair Housing Act, which denial raises an issue of general public importance.

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

23. The Defendants' conduct was intentional, willful, and 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 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;
 - 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 monetary damages to each person aggrieved by the Defendants' discriminatory conduct, under 42 U.S.C. § 3614(d)(1)(B);
- d. Assesses civil penalties against the Defendants to vindicate the public interest, under 42 U.S.C. § 3614(d)(1)(C); and

e. Awards such additional relief as the interests of justice may require.

Dated: April 1, 2020

Respectfully submitted,

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