

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

TASHAWNA FOWLER and JOYCE UTLEY,

Plaintiffs,

-against-

AFFORDABLE HOUSING REAL ESTATE
CORP., 950 RUTLAND ROAD CO. LLC, 1261
ASSOCIATES LLC, and 97 EUCLID REALTY
LLC.,

Defendants.

INDEX NO.:

SUMMONS

TO THE ABOVE-NAMED DEFENDANTS:

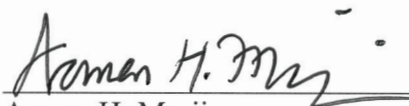
PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer on the Plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the date of the summons, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer or appear, a judgement will be entered against you by default for the relief demanded in the Complaint.

DATED: Brooklyn, New York
November 21, 2024

Respectfully submitted,

HOUSING WORKS, INC.

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SUPREME COURT OF THE STATE OF NEW YORK
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TASHAWNA FOWLER and JOYCE UTLEY,

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950 RUTLAND ROAD CO. LLC, 1261 ASSOCIATES
LLC, and 97 EUCLID REALTY LLC.,

Defendants.

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COMPLAINT

Plaintiffs Tashawna Fowler and Joyce Utley, by their attorneys, allege as follows:

PRELIMINARY STATEMENT

1. Plaintiffs Tashawna Fowler (Ms. Fowler) and Joyce Utley (Ms. Utley) were eager to escape their substandard apartments and secure safe new homes for themselves and their children. Because of their low incomes, both qualified for and secured housing assistance vouchers with which they would contribute no more than thirty percent of their income toward rent, with the government paying the remainder of the full market rent directly to the landlord.

2. Both Ms. Fowler and Ms. Utley inquired about apartments listed by Defendant Affordable Housing Real Estate Corp. (Affordable) on behalf of and as the agent of the owners of those apartments, including apartments owned by Defendants 950 Rutland Road Co. LLC, 1261 Associates LLC, and 97 Euclid Realty LLC. All of these apartments were within the Plaintiffs' voucher range. The agents at Affordable were initially responsive to the Plaintiffs' inquiries. Upon learning about the vouchers, however, the agents entirely and repeatedly ignored or "ghosted" the Plaintiffs. Defendants' refusal to even speak with the Plaintiffs upon learning

that they were utilizing housing vouchers forced the Plaintiffs and their families to remain in their substandard housing.

3. Based upon complaints by Ms. Fowler and Ms. Utley, the Fair Housing Justice Center (FHJC) conducted an investigation into Affordable. FHJC's investigation demonstrated that Affordable has a pattern and practice of refusing to assist or to show apartments (including on behalf of and as the agent of the other Defendants) to individuals who utilize a housing voucher, i.e., a pattern and practice of source of income discrimination.

4. Housing voucher programs assist struggling New Yorkers secure safe and stable housing by providing direct payment of rent to landlords and by capping the rental contributions of voucher holders to ensure their ability to pay their rent. But real estate brokers and property owners, like Defendants, routinely stymie the ability of prospective tenants with vouchers – who are among New York's most vulnerable citizens – to compete fairly and equally with prospective tenants with income solely from employment for the scarce supply of affordable housing.

5. Defendants' refusal to assist, to negotiate with, or to rent to individuals with a housing voucher, a lawful source of income, constitutes source of income discrimination in violation of the New York City Human Rights Law (City HRL), codified at New York City Administrative Code § 8-107 *et seq.*, which has prohibited such discrimination since 2008.

6. The New York State and federal governments committed to assist Ms. Fowler and Ms. Utley with rental payments so that they and their children could live in safe, stable housing. Defendants' unlawful refusal to assist voucher holders must be stopped, and Defendants must be compelled to pay substantial monetary damages to compensate Ms. Fowler and Ms. Utley for the harm they suffered, including both emotional distress and loss of housing opportunity, along with injunctive relief to stop these illegal practices.

THE PARTIES

7. Plaintiff Tashawna Fowler is a 37-year-old low-income woman with five children, ranging in age from 17 to 7. She currently resides in Brooklyn, New York.

8. Plaintiff Joyce Utley is a 48-year-old low-income woman with a 15-year-old daughter. She currently resides in Brooklyn, New York, with her daughter.

9. Defendant Affordable is a domestic business corporation headquartered in Kings County, New York, that is a licensed real estate broker of rental apartments in New York. At all relevant times hereto, Affordable held itself out to the public as an authorized agent acting on behalf of 950 Rutland Road Co. LLC, 1261 Associates LLC, and 97 Euclid Reality LLC, and acted as an agent with authority on behalf of those entities to offer for rent and to actually facilitate the rental of the apartments mentioned herein. Upon information and belief, those entities authorized Affordable and its employees and agents to advertise, show, negotiate for, process applications for, and offer for rent apartments owned by those entities, and provided Affordable and its employees and agents with information in order to list those apartments. Upon information and belief, those entities benefitted from the actions of Affordable and its employees and agents in advertising, showing, negotiating for, processing applications for, and offering such apartments for rent. Plaintiffs Ms. Fowler and Ms. Utley reasonably believed based on the representations of Affordable and its employees and agents that they were authorized to act on behalf of 950 Rutland Road Co. LLC, 1261 Associates LLC, and 97 Euclid Reality LLC with respect to advertising, showing, negotiating for, processing applications for, and offering for rent apartments owned by those entities.

10. Defendant 950 Rutland Road Co. LLC is a Delaware limited liability company that conducts business in New York. 950 Rutland Road Co. LLC owns the 172-unit building at

950 Rutland Road, Brooklyn, NY 11212. 950 Rutland Road Co. LLC's service address with the New York Department of State is 1499 Coney Island Avenue, Brooklyn, New York 11230. Peter Rebenwurz is the owner's registered Head Officer, Michael Haas is the owner's registered Officer, and Renzo Solis is the owner's registered Managing Agent with New York City Housing Preservation and Development (HPD). Rebenwurz, Haas, and Solis all have an HPD registered address at 1499 Coney Island Avenue, Brooklyn, NY 11230 associated with 950 Rutland Road Co. LLC. Affordable has listed at least twenty-four apartments for 950 Rutland Road Co. LLC within the last three years.

11. Defendant 1261 Associates LLC is a domestic limited liability company headquartered in Kings County, New York. 1261 Associates LLC owns the 67-unit building at 1261 Schenectady Avenue, Brooklyn, New York 11203. 1261 Associates LLC's service address with the New York Department of State is 1499 Coney Island Avenue, Brooklyn, New York 11230. Peter Rebenwurz is the owner's registered Head Officer, Michael Haas is the owner's registered Officer, and Renzo Solis is the owner's registered Managing Agent with HPD. Rebenwurz, Haas, and Solis all have an HPD registered address at 1499 Coney Island Avenue, Brooklyn, NY 11230 associated with 1261 Associates LLC. Affordable has listed at least five apartments for 1261 Associates LLC.

12. Defendant 97 Euclid Realty LLC is a domestic limited liability company headquartered in Kings County, New York. 97 Euclid Realty LLC owns the 60-unit building at 97 Euclid Avenue, Brooklyn NY, 11208. 97 Euclid Realty LLC's service address with the New York Department of State is 1499 Coney Island Avenue, Brooklyn,

New York 11230. Peter Rebenwurz is the owner's registered Head Officer, Michael Haas is the owner's registered Officer, and Renzo Solis is the owner's registered Managing Agent with HPD. Rebenwurz, Haas, and Solis all have an HPD registered address at 1499 Coney Island Avenue, Brooklyn, NY 11230 associated with 97 Euclid Realty LLC.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction over this action under N.Y. Judiciary Law § 140-b and § 7 of the Constitution of the State of New York.

14. This Court has personal jurisdiction over Defendants as set forth in CPLR § 301.

15. Venue is properly lodged in this Court pursuant to § 503 of the CPLR.

FACTUAL ALLEGATIONS

Background

16. The Housing Choice Voucher Program, often referred to as "Section 8," is a federal program administered largely by the New York City Housing Authority or HPD that enables low-income households to rent decent, safe, and affordable housing in the private market by providing rental assistance to eligible households. The Family Homelessness & Eviction Prevention Supplement (FHEPS) and the City Fighting Homelessness and Eviction Prevention Supplement (CityFHEPS) are rental assistance supplement programs administered by the New York City Department of Social Services that similarly help individuals and families, who are living in shelters, or at high risk of entering shelters, to secure safe and stable housing.

17. The purpose of Section 8, FHEPS, and CityFHEPS is to ensure that our most vulnerable residents have access to safe and stable housing that does not relegate them to low-opportunity neighborhoods. The voucher and direct payments to landlords that these programs

provide plainly fit within the definition of “lawful source of income” set forth in City HRL § 8-102.

18. Under City HRL §§ 8-107(5)(a)(1), 8-107(5)(a)(2), and (5)(c)(1) landlords, property managers, and brokers are prohibited, *inter alia*, from refusing to rent an apartment to a prospective tenant, refusing to negotiate for the rental of an apartment, discriminating in the terms, conditions, or privileges of the rental of housing accommodations, or otherwise denying and/or withholding apartments for rent because of “any lawful source of income.”

19. The City HRL law prohibits landlords and brokers from discriminating against prospective tenants based on their source of income for good reason. The entire purpose of vouchers is to allow low-income individuals to live in integrated, safe, stable housing. Landlords’ and brokers’ discrimination against voucher holders prevents voucher holders from securing such housing. Discrimination against voucher holders forces them to either compromise by accepting substandard housing or return their expired, unused voucher, leaving them with no housing at all, and often wallowing with their families in homelessness.

20. Landlords and brokers are not allowed to refuse to rent to applicants with vouchers that enable them to pay the full market rent. By refusing to even speak with or assist prospective tenants with vouchers upon learning that they possess a voucher, landlords and brokers, like the Defendants here, discriminate against precisely the people that voucher programs are designed to protect: our most vulnerable residents.

Defendants' Discrimination Against Ms. Fowler

21. In September 2022, Ms. Fowler and her children were living at 57 Glen Street, Brooklyn, NY. A portion of her rent was paid through a FHEPS voucher.

22. The conditions in 57 Glen Street were atrocious. Ms. Fowler had to endure mold, bedbugs, mice, rats, and gas leaks. Cracks ran through her ceiling, walls, and floor. Her refrigerator regularly broke, spoiling her family's food, and the apartment was coated with lead paint. These conditions endangered the health and safety of Ms. Fowler's children, some of whom were living with severe asthma.

23. To protect her children and herself, Ms. Fowler began searching for a new apartment.

24. Throughout her housing search, Ms. Fowler possessed a FHEPS voucher that allowed her to secure a three-bedroom with rent, from the beginning of her search until October 2022, up to \$2,805. Ms. Fowler's voucher limit was later increased to keep up with inflation. With this voucher, Ms. Fowler would pay 30% of her income toward rent, and the government would pay the entire remainder of the full market rent directly to the landlord.

25. On September 27, 2022, Ms. Fowler sent a message through StreetEasy's website requesting a tour of 201 East 96th Street, Apt. 3, Brooklyn, NY 11212, a three-bedroom apartment listed through StreetEasy at \$2,500 "by Affordable Housing Real Estate Corp."

26. On September 28, 2022, Levi Feldman (Feldman), an agent or employee of Affordable, responded to this message by sending Ms. Fowler an email stating that he "would love to get [her] this new apartment"; informing Ms. Fowler that heat and water were included in rent; requesting Ms. Fowler's credit score, income, and move-in date; and closing with, "Looking forward to your reply and showing you this beautiful place."

27. Twenty minutes later, Ms. Fowler responded to Feldman that her move in date was November 1, 2022, she would be living with her five children, she had a “fheps voucher in the amount of \$2,800,” and she received \$1,500 monthly in public assistance and \$1,695 monthly in Supplemental Security Income (SSI).

28. After Ms. Fowler sent this reply, indicating that she possessed a FHEPS voucher, Feldman never responded to Ms. Fowler regarding 201 East 96th Street Apt. 3.

29. That same day, September 27, 2022, Ms. Fowler sent a message through StreetEasy’s website requesting a tour of 1261 Schenectady Avenue, Apt. B, Brooklyn, NY, 11203, a three-bedroom apartment listed on StreetEasy “by Affordable Housing Real Estate Corp” at \$2,400 and owned by Defendant 1261 Associates LLC.

30. The next day, September 28, 2022, Ethan Eisenberg (Eisenberg), an agent or employee of Affordable, and an agent of Defendant 1261 Associates LLC, responded to this message by sending Ms. Fowler an email stating that he “would love to get [her] this new apartment”; requesting her move-in date, credit score, and income; and closing with, “Looking forward to your reply and showing you this beautiful place.”

31. Later that same day, Ms. Fowler responded to Eisenberg that her move in date was November 1, 2022, she would be living with her five children, she had a “fheps voucher in the amount of \$2,800,” and she received \$1,500 monthly in public assistance and \$1,695 monthly in SSI.

32. After Ms. Fowler sent this reply, indicating that she possessed a FHEPS voucher, Eisenberg never responded to Ms. Fowler regarding 1261 Schenectady Ave, Apt. B.

33. In October 2022, New York's Department of Social Services increased Ms. Fowler's FHEPS voucher limit. Ms. Fowler's social worker informed her that her voucher would now cover apartments with rents up to \$3,040.

34. On October 4, 2022, Ms. Fowler went to an open house for 97 Euclid Ave. Apt. 1F, Brooklyn, NY 11208, a three-bedroom apartment listed on StreetEasy "by Affordable Housing Real Estate Corp" for \$2,400 and owned by Defendant 97 Euclid Realty LLC.

35. After the viewing, Ms. Fowler tried to call Affordable about 97 Euclid Ave. Apt. 1F several times, with no response.

36. On October 15, 2022, Ms. Fowler sent a message through StreetEasy's website regarding 97 Euclid Ave, Apt. 1F. She stated that she viewed the apartment, was "very interested" in it, and asked that someone contact her.

37. On October 16, 2022, Mendel Goldman ("Goldman"), an agent or employee of Affordable, and an agent of Defendant 97 Euclid Realty LLC, responded to Ms. Fowler's message regarding 97 Euclid Ave, Apt. 1F stating that he was "glad [she] liked it," and "would love to help get this apartment for [her]," and asking for her income, credit score, and contact information.

38. On October 17, 2022, Ms. Fowler responded with her contact information, stated that she had "a fheps voucher of \$3,040," and asked, "What are the requirements for this apartment?"

39. After Ms. Fowler sent this reply, indicating that she possessed a FHEPS voucher, Goldman never responded to Ms. Fowler regarding 97 Euclid Ave Apt. 1F.

40. On the morning of November 16, 2022, Ms. Fowler sent a message through StreetEasy's website regarding 201 East 96th Street Apt. 4, Brooklyn, NY 11212, a three-

bedroom apartment listed on StreetEasy “by Affordable Housing Real Estate Corp” for \$2,400 stating, “Hello and good morning, I am interested in viewing this apartment. When is there availability & what are the requirements for this apartment?”

41. That day, Ms. Fowler received a confirmation from StreetEasy stating, “Your message to Mendel Goldman has been sent.”

42. That afternoon, Goldman, an agent or employee of Affordable, responded by stating, “I would love to get you this new apartment”; requesting Ms. Fowler’s move-in date, credit score, and income; and closing with, “Let me know when it is best for you to see it and what your number is to confirm.”

43. Less than one hour later, Ms. Fowler responded, informing Goldman that she was moving due to safety reasons; providing her number of prospective residents, contact information, and move-in date; and explaining that she had a “fheps voucher worth \$3040.”

44. After Ms. Fowler sent this reply, indicating that she possessed a FHEPS voucher, Goldman never responded to Ms. Fowler regarding 201 East 96th Street, Apt 4.

45. Over the course of two months, Ms. Fowler inquired about four different apartments listed by Affordable. In response to her inquiries, three different salespeople, acting on behalf of Affordable, initially responded to Ms. Fowler with friendly enthusiasm. For each inquiry, after Ms. Fowler informed them of her FHEPS voucher. Affordable’s salespeople’s responsiveness turned to permanent silence.

46. Ms. Fowler reported this discrimination to FHJC, a nonprofit organization that is dedicated to eliminating housing discrimination, promoting policies that foster

open, accessible, and inclusive communities, and strengthening enforcement of fair housing laws.

47. As detailed below, following Ms. Fowler's reporting, FHJC investigated Affordable's practices by conducting a testing investigation.

48. After her interactions with Affordable and its salespeople, Ms. Fowler continued to live in the deplorable conditions of 57 Glen Street until April 2023.

49. In April 2023, Ms. Fowler moved to a shelter with her five children.

50. Ms. Fowler and her children spent four months in the shelter before they found stable housing in August 2023.

Defendants' Discrimination Against Ms. Utley

51. In December 2023, Ms. Utley resided in her current apartment in Brooklyn, New York with her teenage daughter.

52. Ms. Utley has resided in her current apartment for more than 10 years. That entire time, Ms. Utley has utilized a Section 8 voucher to pay a portion of her rent.

53. Ms. Utley's current apartment has many issues. The apartment is too small for her and her growing daughter. The apartment's heating system is poor. Ms. Utley's daughter's bedroom is frigid for much of the year, and Ms. Utley had to purchase additional heaters to keep her daughter warm. The carpets are old and need replacing. And the building's poor electrical wiring results in frequent circuit breaks that cannot be quickly rectified.

54. Ms. Utley began searching for a more suitable apartment for her and her daughter in the autumn of 2023.

55. Ms. Utley is still searching, on and off, for a new apartment.

56. In December 2023, Ms. Utley possessed a Section 8 voucher for a one-bedroom apartment with a maximum rent of \$2,387, and she could also rent a two-bedroom apartment within the same price range of her voucher. With this voucher, Ms. Utley would pay 30% of her adjusted gross income toward rent, and the government would pay the entire remainder of the full market rent directly to the landlord.

57. On December 28, 2023, Ms. Utley sent a message through StreetEasy's website inquiring about 950 Rutland Road, Apt. 427, Brooklyn, NY 11212, a two-bedroom apartment listed on StreetEasy by Affordable for \$2,200 on behalf of and as the agent of the owner, Defendant 950 Rutland Road Co. LLC.

58. Later that same day, Ms. Utley sent a follow-up email to "Eli (A.H Realty)" at affordablehre@gmail.com asking if they were "accepting section 8 for this apartment."

59. Nobody responded to Ms. Utley regarding 950 Rutland Road Apt. 427.

60. Ms. Utley reported her fruitless attempt to rent an apartment at 950 Ruland Road to FHJC.

61. FHJC had already received complaints about Affordable's procedures with respect to prospective tenants with vouchers and had been investigating Affordable's practices since at least March 2023.

62. As detailed below, following Ms. Utley's complaint, FHJC continued its testing investigation of Affordable's practices.

63. In its investigation into Affordable, FHJC dispatched pairs of trained testers posing as prospective tenants with vouchers and prospective tenants with income solely from employment, respectively, to test whether Affordable and the property

owners that engaged and authorized Affordable as their agent to interact with prospective tenants, discriminate against prospective tenants with vouchers.

64. All calls placed, visits made, and messages sent and received by FHJC testers were recorded.

Test 1

65. The first test involved 332 Chauncey Street, Apt. 1B, Brooklyn, NY 11233, a three-bedroom apartment advertised on Streeteasy.com for a rent of \$2,750. The StreetEasy advertisement for 332 Chauncey Street, Apt. 1B stated that the apartment was a “Listing by Affordable Housing Real Estate Corp, Corporate Broker” and “LISTED BY Mendel Spalter, Licensed Real Estate Salesperson, Affordable Housing Real Es....”

66. On March 15, 2023, at approximately 12:16 p.m., an FHJC tester posing as a prospective tenant with income solely from employment (Employed Tester 1) called Mendel Spalter (Spalter) at (954) 658-8941, to inquire about Apt. 1B. The call went to voicemail and Employed Tester 1 did not leave a message.

67. In March 2023, Spalter was a registered salesperson with the New York State Department of State under Affordable’s brokerage license.

68. Approximately two minutes after the call, Spalter texted Employed Tester 1 from (954) 658-8941 asking Employed Tester 1 to text.

69. Employed Tester 1 quickly sent a responsive text to Spalter expressing his interest in the listing at 332 Chauncey and asking whether the apartment was still available.

70. Thirteen minutes later, Spalter sent a reply text stating, “would love to get you this apartment . . . Looking forward to your reply and showing you this beautiful place” and asked for Employed Tester 1’s income, credit score, and move-in date.

71. Three minutes later, Employed Tester 1 replied with his credit (“great”), income (\$136,000), availability, and phone number.

72. Over the following hour and a half, Employed Tester 1 and Spalter arranged a viewing at 3:00 p.m. that same day and for Employed Tester 1 to call Spalter when he arrived.

73. On the same day, at 2:22 p.m., an FHJC tester posing as a prospective tenant with a voucher (Voucher Tester 1) called Spalter at (949) 658-8941 to inquire about 332 Chauncey Street, Apartment 1B, Brooklyn, NY 11233. The call went to voicemail and Voucher Tester 1 did not leave a voicemail.

74. Twenty minutes later, Employed Tester 1 sent Spalter a text explaining that he was running 10-15 minutes late to the viewing.

75. Three minutes later, Voucher Tester 1 called Spalter again at (954) 658-8941 to inquire about 332 Chauncey St, Apt. 1B. The call went to voicemail and Voucher Tester 1 did not leave a voicemail.

76. One minute later, Spalter texted Voucher Tester 1 from (954) 658-8941 requesting communication over text.

77. Seven minutes later, Voucher Tester 1 texted Spalter asking to hear more about the three-bedroom listing at 332 Chauncey Street and whether Spalter was available to speak on the phone.

78. Fourteen minutes later, Spalter texted Voucher Tester 1 back, stating, “would love to get you this apartment . . . Looking forward to your reply and showing you this beautiful place” and requesting Voucher Tester 1’s credit score, income, and move-in date.

79. In that same minute, Spalter texted Employed Tester 1 acknowledging Employed Tester 1 would be late.

80. Nine minutes later, at 3:16 p.m., Voucher Tester 1 responded, "I am looking to move asap. . . . My credit score is 715 and I make \$28,000. I have a section 8 voucher that covers \$3,385 for a 3 bedroom. Please let me know when I can tour the apartment. Look forward to hearing from you!"

81. Fifteen minutes later, Employed Tester 1 texted Spalter informing Spalter that he was outside of the building.

82. Starting at approximately 3:24 p.m. on March 15, 2023, Spalter showed Employed Tester 1 332 Chauncey Street, Apt. 1R, Brooklyn, New York 11233. Apt.1R was a different apartment than the apartment that Employed Tester 1 inquired about but was in the same building.

83. During the viewing, Spalter verified his name and explained *inter alia* that Apt. 1R was a three-bedroom and rent stabilized, had a rent of \$2,750 with heat and hot water included, required one month's broker's fee and one month's deposit upon signing, and was immediately available.

84. During the viewing, Employed Tester 1 stated that he would have to check with his wife about the apartment.

85. Towards the end of the viewing, around 3:34 p.m., Spalter informed Employed Tester 1 that he could text Spalter if he wanted the apartment.

86. The viewing ended around 3:36 p.m.

87. Not having heard from Spalter, at 5:14 p.m. that same day, Voucher Tester 1 texted Spalter, “Hey I haven’t heard back from you. Just would like to know if the apartment is still available. Would love to take a tour sometime this week!”

88. Hearing nothing again, the next day, March 16, 2023, at 8:54 a.m., Voucher Tester 1 sent a second follow-up text, stating, “Hi again, just following up. I’m very interested in seeing the unit.”

89. An hour and a half later that same day, Employed Tester 1 texted Spalter requesting an application and informing Spalter that he and his wife were still looking at a few more apartments.

90. Ten minutes later, Spalter sent a reply text to Employed Tester 1 stating “Sure!” and including a link to the application.

91. The top of the application page identified it as an “Evoke Property Group at Affordable Housing Real Estate Corp. Rental Application.” The page also stated, “Thank you for your interest in Evoke Property at Affordable Housing Real Estate Corp” and identified the “Agent” as “Mendel Spalter.”

92. Employed Tester 1 acknowledged receipt of the application and Spalter stated, “Let me know if you have any questions!”

93. The following day, March 17, 2023, at 10:47 a.m., Spalter sent a follow-up text to Employed Tester 1 asking, “Any update on your decision?”

94. At 1:37 p.m., Employed Tester 1 informed Spalter that he and his wife “saw a place today that [he] think[s they] will move forward with.”

95. Still hearing nothing from Spalter, less than half an hour later on the same day, Voucher Tester 1 sent a third follow-up text to Spalter, asking, “any word on the 3 bedroom at 332 Chauncey Street? I am free to tour anytime this week.”

96. Still not having responded to Voucher Tester 1, seven days later, on March 24, 2023, at 2:57 p.m., Spalter texted Employed Tester 1 asking whether he ended up renting another apartment.

97. There were no further communications between Spalter and Employed Tester 1.

98. Spalter never responded to Voucher Tester 1, despite several attempts at communication by Voucher Tester 1, over a three-day period, from the moment Spalter learned that Voucher Tester 1 possessed a housing voucher.

99. In short, an Affordable salesperson treated a prospective tenant with a voucher in a disparate and discriminatory fashion compared with a non-voucher-holder. Affordable’s salesperson communicated with and accommodated a fully employed potential tenant by promptly responding to his texts, showing him an available apartment that fit his needs, sending him an application for the apartment, and following up with him when he was noncommunicative. Over precisely the same period, Affordable’s salesperson repeatedly ignored a qualified applicant with a voucher, even though the salesperson knew about an available apartment within the voucher holder’s price range and even after the employed applicant expressed a lack of interest in that available apartment.

Test 2

100. The second test involved 332 Chauncey Street, Apt. 1L, Brooklyn, New York 11233, a three-bedroom apartment advertised on Streeteasy.com for a rent of \$2,750. The StreetEasy ad for 332 Chauncey Street, Apt. 1L stated it was a “Listing by Affordable Housing

Real Estate Corp, Corporate Broker,” and also, “LISTED BY Mendel Spalter Licensed Real Estate Salesperson, Affordable Housing Real Es....”

101. On March 20, 2023, at approximately 10:22 a.m., an FHJC tester posing as a prospective tenant with income solely from employment (Employed Tester 2) sent a message via StreetEasy’s website expressing interest in viewing 332 Chauncey Street, Apt. 1L, Brooklyn NY, 11233.

102. Employed Tester 2 received a confirmation email stating, “Your message was sent. Mendel Spalter will review your request.”

103. Two minutes later, Employed Tester 2 received an email from mendels@evokepg.com, which was associated with “Mendel Spalter.” Spalter stated, “would love to get you this apartment Looking forward to your reply and showing you this beautiful place” and requested Employed Tester 2’s income, credit score, and move-in date.

104. Two minutes later, Employed Tester 2 sent Spalter a reply email, providing his credit score (720), income (\$116,000), move-in date (“End of the month to end of April”), and stating, “Would love to tour sometime tomorrow. Let me know if that can be arranged.”

105. Twelve minutes later, Spalter sent a reply text, stating: “Sure, what time?”

106. Two minutes later, Employed Tester 2 sent a reply text suggesting 1:30, and four minutes after, Spalter confirmed: “Sounds good. Call me at 954-658-8941 when you arrive. See you!”

107. Approximately three hours later that same day, March 20, 2023, at 1:35 p.m., an FHJC tester posing as a prospective tenant with a voucher (Voucher Tester 2)

sent a message on StreetEasy requesting to see the same three-bedroom apartment at 332 Chauncey Street, Apt. 1L, Brooklyn, NY 11233.

108. Voucher Tester 2 received a confirmation stating, “Your message was sent. Mendel Spalter will review your request.”

109. The same afternoon, at 3:11 p.m., Voucher Tester 2 received an email from mendels@evokepg.com, which was associated with “Mendel Spalter.” Spalter stated, “would love to get you this apartment . . . Looking forward to your reply and showing you this beautiful place” and requested Voucher Tester 2’s income, credit score, and move-in date.

110. Ten minutes later, Voucher Tester 2 sent a reply email providing his move-in date (“as soon as possible”), income (\$52,000), and credit score (730), explained that he had “a section 8 voucher for up to \$3,385 per month,” and requested, “When can I tour the apartment?”

111. Spalter did not respond to this email from Voucher Tester 2.

112. The next day, March 21, 2023, Spalter and Employed Tester 2 exchanged emails confirming they would see each other that day at 1:30 for a viewing.

113. At approximately 1:34 p.m. that day, Spalter met with Employed Tester 2 to show him 332 Chauncey Street, Apt. 1L.

114. During the viewing, Spalter confirmed his name; explained that the rent for 332 Chauncey Street, Apt. 1L had decreased to \$2,700 with heat and hot water included, there was no gas for the apartment, the apartment required a one-month security deposit and a one-month broker’s fee, and he confirmed, “We haven’t had anyone apply yet [for the apartment].”

115. During the viewing, Employed Tester 2 explained he and his wife were still “pretty early in the search” for an apartment, he needed to check in with his wife about the apartment, and he would reach out if they were interested in the apartment.

116. The viewing ended at approximately 1:40 p.m.

117. There were no further communications between Employed Tester 1 and Spalter.

118. The same day, at 4:21 p.m., having heard nothing back from Spalter, Voucher Tester 2 sent another email to Spalter stating, “Any word? I would like to set up a showing of 332 Chauncey Street. The 3 bedroom that is posted on Streatasy.com.”

119. Spalter never responded to Voucher Tester 2.

120. In short, the Affordable salesperson treated a prospective tenant with a voucher in a disparate and discriminatory fashion compared with a prospective tenant without a voucher and with employment income. Affordable’s salesperson communicated with and accommodated an employed potential tenant by promptly responding to his text messages, showing him the requested apartment, and providing all relevant information. Over precisely the same period, that salesperson repeatedly ignored a qualified applicant with a voucher, even though the landlord had not “had anyone apply yet” to the apartment.

Test 3

121. The third test also involved 332 Chauncey Street, Apt. 1L, Brooklyn, New York 11233, a three-bedroom apartment advertised on Streeteasy.com for a rent of \$2,700. The StreetEasy ad for 332 Chauncey Street, Apt. 1L stated that it was a “Listing by Affordable Housing Real Estate Corp, Corporate Broker” and “LISTED BY Mendel Spalter Licensed Real Estate Salesperson, Affordable Housing Real Es....”

122. On March 22, 2023, at approximately 11:50 a.m., an FHJC tester posing as a prospective tenant with income solely from employment (Employed Tester 3) sent a

message via StreetEasy's website expressing an interest in viewing 332 Chauncey Street Apt. 1L and asking whether she could view the apartment later that day.

123. Employed Tester 3 received a confirmation stating, "Your message was sent. Mendel Spalter will review your request."

124. Eleven minutes later, Employed Tester 3 received an email from mendels@evokepg.com, which was associated with "Mendel Spalter." Spalter stated, "would love to get you this apartment . . . Looking forward to your reply and showing you this beautiful place" and requested Employed Tester 3's income, credit score, and move-in date.

125. Within the same minute, Spalter sent Employed Tester 3 a text message stating, "Mendel Spalter here – you emailed me regarding 332 Chauncey. I would love to help you find an apartment. What's your credit, income and budget?"

126. Four minutes later, Employed Tester 3 sent a reply email to Spalter providing her household income (\$108,000), credit score (740), move-in date ("as soon as possible"), and informing Spalter that she was available for a tour that day.

127. One minute later, Employed Tester 3 sent a reply text to Spalter informing him that she had sent him an email with the requested details and asking if there was a time to view the apartment that day.

128. Over the next two hours, Spalter and Employed Tester 3 exchanged texts and established that Spalter would show Employed Tester 3 332 Chauncey Street, Apt. 1L, at 5:00 p.m. that evening.

129. At 5:02 p.m. on March 22, 2023, Spalter texted Employed Tester 3 to inform her that he would be late to the viewing.

130. Around 5:14 p.m. on March 22, 2023, Spalter met with Employed Tester 3 and showed her 332 Chauncey Street, Apt. 1L, Brooklyn, NY.

131. During the viewing, Spalter confirmed that 332 Chauncey Street, Apt. 1L was “available right away”; rent was \$2,700; the apartment required a security deposit and broker’s fee of one month each; and the approval process would be “very quick.”

132. During the viewing, Employed Tester 3 requested an application and Spalter texted Employed Tester 3 a link. The link redirected to a page which read, “Evoke at Affordable Housing Guarantor: Rental Application,” “Thank you for your interest in Evoke at Affordable Housing Guarantor,” and identified the “Agent” as “Mendel Spalter.”

133. During the viewing, Employed Tester 3 said that she and her husband recently started looking for apartments, she would need to speak with her husband about the apartment, she and her husband would be looking at other apartments, and that the ground floor might not work for them. Unrequested, Spalter offered another viewing of the apartment for Employed Tester 3’s husband.

134. The viewing ended at approximately 5:19 p.m. on March 22, 2023.

135. Two days later, on March 24, 2023, at 1:47 p.m., Spalter sent Employed Tester 3 a follow-up message asking, “What do you think about 332 Chauncey?” Employed Tester 3 did not respond that day.

136. Three days later, on March 27, 2023, at 1:01 p.m., an FHJC tester posing as a prospective tenant using a voucher (Voucher Tester 3) sent a message via StreetEasy’s website expressing an interest in viewing 332 Chauncey Street, Apt. 1L, Brooklyn NY 11233. (This same apartment was listed by Affordable as a three-bedroom,

and tests confirmed that this was indeed a three-bedroom apartment.) The StreetEasy listing stated that the apartment was a “Listing by Affordable Housing Real Estate Corp,” and “LISTED BY Mendal Spalter.” Voucher Tester 3 asked whether she could see Apt. 1L that week.

137. Forty minutes later, at 1:43 p.m., Voucher Tester 3 received an email from mendels@evokepg.com, which was associated with “Mendel Spalter.” Spalter stated, “would love to get you this apartment. . . . Looking forward to your reply and showing you this beautiful place,” and requested Voucher Tester 3’s income, credit score, and move-in date.

138. Thirty-six minutes later, Voucher Tester 3 sent a reply email to Spalter stating her move-in date (“as soon as possible”), income (\$28,000), and credit (“good credit”); explaining that she had a CityFHEPS voucher that would assist her with rent; and asking if she could tour the apartment this week.

139. Spalter did not respond to Voucher Tester 3’s email.

140. Two days later, March 29, 2023, at 11:18 a.m., Employed Tester 3 responded to Spalter’s text message from five days prior, informing Spalter that the apartment “isn’t great for our family” and asking whether there were “any other three bedrooms available?”

141. Ten minutes later, still without responding to Voucher Tester 3, Spalter sent a reply text to Employed Tester 3 saying that he did have other available three-bedroom apartments and asking for Employed Tester 3’s budget.

142. Two minutes later, Employed Tester 3 texted back stating that she would like to stay below three thousand dollars, to which Spalter promptly responded by providing information about a three-bedroom apartment with a rent of \$2,999.

143. There were no further communications between Spalter and Employed Tester 3.

144. Spalter never responded to Voucher Tester 3 after Voucher Tester 3 revealed that she possessed a voucher.

145. In short, the Affordable salesperson once again treated a prospective tenant with a voucher in a disparate and discriminatory fashion compared with a prospective tenant without a voucher and with employment income. The Affordable salesperson communicated with and accommodated a fully employed potential tenant by promptly responding to her messages, keeping her updated on his whereabouts, showing her the requested apartment, providing an unsolicited offer for a second viewing, following up when he did not hear from her for several days, and providing information about additional apartments when she expressed a lack of interest in the viewed apartment. Meanwhile, that Affordable salesperson repeatedly ignored a qualified applicant with a voucher, even after the employed tester expressed a lack of interest in the apartment.

Test 4

146. The fourth test involved 320 Empire Boulevard, Apt. 1R, Brooklyn, New York 11225, a two-bedroom apartment advertised on Streeteasy.com for a rent of \$2,800. The StreetEasy ad for 320 Empire Boulevard, Apt. 1R, stated that it was a “Listing by Affordable Housing Real Estate Corp.”

147. On February 1, 2024, at 1:56 p.m., an FHJC tester posing as a prospective tenant with income solely from employment (Employed Tester 4) sent a message via StreetEasy’s website expressing interest in viewing 320 Empire Boulevard, Apt. 1R and asking whether the apartment was still available.

148. Employed Tester 4 received a confirmation email stating, "Your message was sent. Eli Loebenstein will review your request."

149. Four minutes later, at 2:00 p.m., Employed Tester 4 received an email from affordablehre@gmail.com that was identified as being associated with "Eli (A.H Realty)." Eli Loebenstein's (Loebenstein) email stated, "I would love to get you this new apartment Looking forward to your reply and showing you this beautiful place," informed him that heat and water were included in the rent, and asked for credit, income, and move-in date. The email was signed "Shmuly." While Employed Tester 4 viewed apartments several days later, Loebenstein confirmed that he was the same person as "Shmuly."

150. Loebenstein was a salesperson under Affordable's brokerage license with the New York State Department of State. Loebenstein still is registered as a salesperson under Affordable's brokerage license with the New York State Department of State.

151. Eight minutes later, Employed Tester 4 sent Loebenstein an email providing his credit score (700), income (\$112,000), and move-in date ("ASAP"), and asking whether the apartment was still available.

152. Two hours later, Loebenstein texted Employed Tester 4 from (347) 243-1788, confirming they had exchanged emails, informing Employed Tester 4 that Apt. 1R at 320 Empire Blvd. was no longer available, telling Employed Tester 4 about a different available two-bedroom apartment with a rent of \$2,950, and providing a link to that apartment's listing.

153. An hour and a half later, Employed Tester 4 responded, asking when he could see that apartment and asking whether Loebenstein had any other two-bedroom apartments available.

154. An hour and a half later, Loebenstein responded that he could show the apartment that day or the following day and asked for Employed Tester 4's budget.

155. Three hours later, Employed Tester 4 responded that his budget was up to \$3,000.

156. That evening, Loebenstein and Employed Tester 4 started to schedule a time to visit the suggested apartment but never finalized the viewing.

157. The following day, February 2, 2024, at 2:25 p.m., Loebenstein sent an unsolicited text to Employed Tester 4 stating, "Just following up."

158. That day, Loebenstein and Employed Tester 4 exchanged texts during which Loebenstein provided information and the StreetEasy listing for another apartment and Employed Tester 4 explained that the apartment was over his budget.

159. Three days later, on February 5, 2024, at 4:27 p.m., Loebenstein sent an unsolicited text to Employed Tester 4 including information about a "2 bedroom for 2300," "At 2502 Ave d," and sending a video of the apartment.

160. The following day, February 6, 2024, at 11:26 p.m., Employed Tester 4 sent Loebenstein a reply text asking whether he could view the apartment the next day.

161. Over the next ten minutes, Loebenstein and Employed Tester 4 scheduled a viewing of the two-bedroom apartment at 2502 Avenue D for the following day at 2:00 p.m. During that conversation, Loebenstein requested Employed Tester 4's email so that he could send the apartment application. Employed Tester 4 provided his email address. Loebenstein confirmed that he sent the application. Employed Tester 4 confirmed receipt of the application and that they would meet the following day at 2:00 p.m.

162. In the middle of that text exchange, at 11:51 a.m., Employed Tester 4 received an email from affordablehre@gmail.com, associated with "Eli (A.H. Realty)" providing Employed Tester 4 with a link and a list of documents required for the

application. The link redirected to a page entitled, “Affordable Housing Real Estate Corp,” which stated, “Thank you for applying to Affordable Housing Real Estate Corp.”

163. The following day, February 7, 2024, at 12:47 p.m., an FHJC tester posing as a prospective tenant using a voucher (Voucher Tester 4) sent a message through StreetEasy’s website regarding 320 Empire Boulevard, Apt. 1R, Brooklyn, NY 11225. Voucher Tester 4 asked for a time to view the apartment and whether the apartment was still available.

164. Voucher Tester 4 received a confirmation notice stating, “Your message was sent. Eli Loebenstein will review your request.”

165. Five minutes later, Voucher Tester 4 received an email from affordablehre@gmail.com with the associated name “Eli (A.H Realty), stating, “I would love to get you this new apartment Looking forward to your reply and showing you this beautiful place,” informing Voucher Tester 4 that heat and water were included in the rent, and requesting Voucher Tester 4’s income, credit score, and move-in date. The email was signed “Shmuly.”

166. Eight minutes later, Voucher Tester 4 sent Loebenstein a reply email providing his phone number, income (\$42,000), credit score (715), move-in date (“now”), informing Loebenstein he had a “CityFHEPS voucher for \$3,027,” and requesting a viewing time.

167. Loebenstein did not respond to Voucher Tester 4.

168. Fifteen minutes later, Loebenstein texted Employed Tester 4 that he was on his way to their scheduled viewing.

169. At approximately 2:10 p.m., Employed Tester 4 met with Loebenstein and Loebenstein showed Employed Tester 4 2502 Avenue D, Apt. 4F, Brooklyn, NY 11226.

170. During the viewing, Loebenstein confirmed his identity and that it was he who was emailing Employed Tester 4. Loebenstein informed Employed Tester 4 that 2502 Avenue

D, Apt. 4F was available for move-in immediately, rent was \$2,300 per month for a two-bedroom, the apartment was rent stabilized, heat and hot water were included in rent, and a one-month security deposit and broker's fee were required.

171. During the viewing, Employed Tester 4 stated multiple times that he needed to speak with his wife before moving forward and Loebenstein offered to send a video of the apartment to Employed Tester 4's wife. Employed Tester 4 left the meeting stating that he was going to view more apartments that weekend.

172. The viewing ended at approximately 2:22 p.m.

173. There were no further communications between Employed Tester 4 and Loebenstein.

174. The next day, having heard nothing from Loebenstein, Voucher Tester 4 sent a follow-up email to Loebenstein asking if Loebenstein had any available two-bedroom apartments with rents up to \$3,027.

175. Loebenstein never responded to Voucher Tester 4.

176. In summary, another Affordable salesperson treated a prospective tenant with a voucher in a disparate and discriminatory fashion compared with a prospective tenant without a voucher and with employment income. The Affordable salesperson communicated with and accommodated a fully employed potential tenant by promptly responding to messages, providing information about additional available apartments, requesting information about the employed tester's budget, following up when the tester was noncommunicative, sending the rental application unsolicited, and showing the tester an available apartment. Meanwhile, that Affordable salesperson repeatedly ignored a

qualified applicant with a voucher, even though the salesperson knew of an available apartment within the voucher holder's payment standard.

Test 5

177. The fifth test involved 1667 Brooklyn Ave, Apt. 3B, Brooklyn, New York 11210, a two-bedroom apartment advertised on Streeteasy.com for \$2,500. The StreetEasy ad for Brooklyn Ave, Apt. 3B stated that it was a "Listing by Affordable Housing Real Estate Corp., Corporate Broker."

178. On February 5, 2024, at 10:08 a.m., an FHJC tester posing as a prospective tenant with income solely from employment (Employed Tester 5) sent a message through StreetEasy's website expressing interest in viewing 1667 Brooklyn Ave, Apt. 3B, and asking whether the apartment was available for viewing that afternoon.

179. Employed Tester 5 received a confirmation message on the StreetEasy website stating, "Your message was sent. Eli Loebenstein will review your request."

180. Two minutes later, Employed Tester 5 received an email from "Yankel" at affordablehre@gmail.com stating, "I would love to get you this new apartment Looking forward to your reply and showing you this beautiful place" and asking for Employed Tester 5's credit score, income, and move-in date.

181. Thirteen minutes later, Employed Tester 5 responded to Yankel via email providing his income (\$100,000), credit ("just over 700"), and move-in date ("asap"), and asking whether he could view 1667 that afternoon.

182. One minute later, Employed Tester 5 sent Yankel an email providing his phone number.

183. Eight minutes later, Yankel sent a reply email informing Employed Tester 5 that Apt. 3B at 1667 Brooklyn Ave was taken, offering to show Employed Tester 5 “a few 2-bedrooms . . . basically next door,” providing a video of one of the apartments, and suggesting a viewing at 3:30 p.m. that day.

184. Five minutes later, Employed Tester 5 replied to Yankel confirming 3:30 p.m. and asking for the apartment’s rent.

185. Eight minutes later, Yankel responded confirming 3:30 p.m. and informing Employed Tester 5 of the net rent for a fifteen-month lease for apartments at 1629 and 1665 Brooklyn Avenue, Brooklyn NY, 11210.

186. Seven minutes later, Employed Tester 5 asked whether twelve-month leases were available and informed Yankel that he was hoping to spend no more than \$2,500 per month.

187. Twenty-five minutes later, Yankel responded that the net rent for a twelve-month lease would be approximately \$2,500 per month and stated, “I’ll show you a few options.”

188. Three minutes later, Yankel sent a follow-up email to Employed Tester 5 stating, “The landlord confirmed \$2500 for a 12-month lease.”

189. Over the next forty-five minutes, Yankel and Employed Tester 5 exchanged emails establishing that Employed Tester 4 should meet Yankel at 1629 Brooklyn Avenue at 3:30 p.m. that day.

190. One hour later, at 1:10 p.m., an FHJC tester posing as a prospective renter with a voucher (Voucher Tester 5) sent a message through StreetEasy’s website about 1667 Brooklyn Ave. Apt. 3B, Brooklyn, NY 11210. Voucher Tester 5 asked whether the

apartment was still available and expressed interest in viewing the apartment “today or tomorrow.”

191. Voucher Tester 5 received a confirmation message from StreetEasy stating, “Your message was sent. Eli Loebenstein will review your request.”

192. Four minutes later, at 1:14 p.m., Voucher Tester 5 received an email from Yankel at affordablehre@gmail.com stating, “I would love to get you this new apartment Looking forward to your reply and showing you this beautiful place” and asking for Voucher Tester 5’s credit score, income, and move-in date.

193. Six minutes later, at 1:20 p.m., Voucher Tester 5 sent a responsive email to Yankel providing his credit score (720), income (\$38,000), move-in date (“as soon as possible”), and informing Yankel that he had “a Section 8 voucher for a 2 bedroom apartment up to \$3,027” and “availability today and tomorrow to view the apartment.”

194. Yankel did not respond to Voucher Tester 5’s email.

195. Twenty minutes after Voucher Tester 5 informed Yankel that he had a voucher, at 1:40 p.m., Yankel sent an email to Employed Tester 5 letting him know that Yankel was available to show the apartment earlier than initially planned and asking whether Employed Tester 5 would like to meet earlier.

196. After an email exchange between Yankel and Employed Tester 5 moving the meeting time earlier, at approximately 3:14 p.m., Employed Tester 5 met Yankel at 1629 Brooklyn Ave, Brooklyn, New York 11210, and viewed apartments 5C, 5D, and 7B at 1629 Brooklyn Ave.

197. At the start of the viewing, Yankel confirmed that Employed Tester 5 was emailing Yankel even though the name associated with affordablehre@gmail.com was “Eli A.H Realty).” Yankel explained that Loebenstein is the one “who runs the brokerage.”

198. During the viewing, Employed Tester 5 viewed a two-bedroom apartment at 5C, a two-bedroom apartment at 5D, and a one-bedroom apartment at 7B. Yankel confirmed that all three apartments were immediately available for \$2,500 per month on a twelve-month lease with all utilities except electricity included, did not require a broker’s fee, and required a one-month security deposit.

199. Yankel offered to show Employed Tester 5 a two-bedroom apartment with a rent of \$2,700 available in another building. Employed Tester 5 declined the offer; however, Yankel explained the layout and rent details of the other building, offered to FaceTime a viewing of the other apartment, and offered to email Employed Tester 5 a video of the other apartment.

200. Employed Tester stated that his wife was looking at other apartments and they would need to speak about the apartments before moving forward.

201. The viewing ended at approximately 3:32 p.m. on March 5, 2024.

202. Approximately ten minutes after the viewing ended, at 3:40 p.m., Yankel emailed Employed Tester 5 saying, “It was great meeting you,” reiterating that the apartments require a \$500 refundable deposit and an application to “lock up the unit,” confirming that one month’s rent plus one month’s security would be due, attaching a video of 1629 Brooklyn Ave. Apt. 7B, and encouraging Employed Tester 5 to “Please reach out with any questions or clarifications.”

203. Less than two hours later, at 5:06 p.m., Yankel sent Employed Tester 5 an unsolicited follow-up email informing him of another apartment which is “in a better location” and has a rent of “only \$2300.” Yankel asked that Employed Tester 5 “Let me know if the location is better for you and we can check it out or I can send you a video tomorrow.”

204. That night, at 8:39 p.m., Voucher Tester 5 sent Yankel a follow-up email asking whether 1667 Brooklyn Ave. Apt. 3B, was still available.

205. Later that same night at 10:13 p.m., still without having responded to Voucher Tester 5, Yankel sent Employed Tester 5 another unsolicited follow-up email informing Employed Tester 5 that the landlord requested a fifteen-month lease and asking whether Employed Tester 5 would like to view another apartment.

206. The following day, February 6, 2024, at 11:01 a.m., Employed Tester 5 sent Yankel a responsive email reiterating that he needed a twelve-month lease and asking whether the other apartment that Yankel mentioned was a twelve-month lease.

207. In the middle of the email exchange between Yankel and Employed Tester 5, at 11:48 a.m. on February 6, 2024, Voucher Tester 5 sent another follow-up email to Yankel stating, “I have a section 8 voucher that allows me to look at any 2 bed up to \$3,027 so if you have any others available let me know.”

208. Eleven minutes later, at 11:59 a.m., without responding to Voucher Tester 5’s email, Yankel emailed Employed Tester 5 back saying that he would ask the landlord whether Employed Tester 5 could have a twelve-month lease.

209. Later that night, at 6:13 p.m., Yankel followed up with Employed Tester 5, letting him know that the landlord agreed to a twelve-month lease with a net rent of \$2,554 per month for all three apartments at 1629 Brooklyn Ave.

210. The Employed Tester 5 asked for clarification about the landlord's offers, and the following morning, February 7, 2024, at 8:05 a.m., Yankel explained again that the landlord agreed to a rent any of the apartments that Employed Tester 5 viewed for a net rent of \$2,554 per month with a twelve-month lease.

211. Employed Tester 5 did not reply to Yankel's final clarification regarding the twelve-month rent for the apartments at 1629 Brooklyn Ave.

212. Three days later, on February 10, 2024, Yankel sent an unsolicited follow-up email to Employed Tester 5 informing him that some of the apartments they viewed were no longer available, asking whether Employed Tester 5 would like to reserve the available apartment that they viewed, and informing Employed Tester 5 about other available apartments on the second and third floor of 1629 Brooklyn Ave.

213. Two days later, on February 12, 2024, Yankel sent another unsolicited follow-up email to Employed Tester 5 asking whether Employed Tester 5 was still considering the units and attaching photos of an available two-bedroom apartment.

214. There were no further communications between Yankel and Employed Tester 5.

215. Three days later, on February 15, 2024, Voucher Tester 5 followed up with Yankel a third time asking whether Yankel had any available two-bedroom apartments under \$3,027 per month.

216. Yankel never responded to Voucher Tester 5.

217. In summary, yet another Affordable salesperson treated a prospective tenant with a voucher in a disparate and discriminatory fashion compared with a prospective tenant without a voucher and with employment income. The Affordable salesperson communicated with and accommodated a fully employed potential tenant by promptly responding to messages, providing information about additional available apartments, negotiating with the owner about the length of the lease, showing the applicant multiple available apartments, offering to show the applicant additional available apartments, updating the applicant when apartments became unavailable, and following up with the applicant when he was non-responsive. Meanwhile, that Affordable salesperson repeatedly and entirely ignored a qualified applicant with a voucher, even though the salesperson knew of multiple available apartments within the voucher holder's payment standard.

Test 6

218. The sixth test involved 950 Rutland Road, Apt 228, Brooklyn, New York 11212, a one-bedroom apartment advertised on Streeteasy.com for a rent of \$1,800. The StreetEasy advertisement for 950 Rutland Road, Apt 228, stated that it was a "Listing by Affordable Housing Real Estate Corp., Corporate Broker" and "LISTED BY Eli Loebenstein, Licensed Real Estate Salesperson; Affordable Housing Real Estate Corp; (347) 243-1788." 950 Rutland Road is owned by Defendant 950 Rutland Road Co. LLC.

219. 950 Rutland Road is the same address and building housing an apartment about which Ms. Utley inquired in late December 2023, only for Affordable to entirely "ghost" her after she revealed that she possessed a housing voucher.

220. On February 15, 2024, at 1:50 p.m., an FHJC tester posing as a prospective tenant with income solely from employment (Employed Tester 6) called Eli Loebenstein at (347) 243-

1788 regarding the StreetEasy listing for 950 Rutland Road Apt. 228. The call went to voicemail and Employed Tester 6 did not leave a voice message.

221. Ten minutes later, Loebenstein, an agent or employee of Affordable and an agent of Defendant 950 Rutland Road Co. LLC, texted Employed Tester 6 from (347) 243-1788 stating, “Sorry I missed your call if you can leave me a brief message with your name, address you are calling about, move in date, income and credit, I will try to get back to you as soon as I can.”

222. Nine minutes later, at 2:12 p.m., an FHJC tester posing as a prospective renter with a voucher (Voucher Tester 6) texted Loebenstein at (347) 243-1788 regarding the same StreetEasy listing for 950 Rutland Rd. Apt. 228 and asked whether the apartment was still available.

223. One minute later, Loebenstein texted Voucher Tester 6 back from (347) 243-1788 stating, “Sorry I missed your call if you can leave me a brief message with your name, address you are calling about, move in date, income and credit, I will try to get back to you as soon as I can.”

224. Five minutes later, Employed Tester 6 called Loebenstein at (347) 243-1788. Loebenstein did not answer. Employed Tester 6 did not leave a message.

225. Fifteen minutes later, Employed Tester 6 texted Loebenstein at (347) 243-1788 stating that she was inquiring about 950 Rutland Road, Apt. 228, providing her move in date (“between now and the end of the month”), income (\$78,000), credit (“good”), and asking whether she could view the apartment the following day.

226. One minute later, Loebenstein texted back informing Employed Tester 6 that Apt. 228 was not available but 1145 East 35th Street, Apt. 4H, Brooklyn, NY 11210, was available, and provided the link to StreetEasy listing for Apt. 4H.

227. On StreetEasy, 1145 East 35th Street, Apt. 4H was listed as a one-bedroom, rent-stabilized apartment with a rent of \$1,885.

228. Over the following ten minutes, Loebenstein and Employed Tester 6 exchanged emails confirming Loebenstein's name ("Eli") and setting up a viewing of Apt. 4H for the following day at 11:00 a.m.

229. At 2:49 p.m., Loebenstein sent an unsolicited request for Employed Tester 6's email address so that he could send her the apartment application.

230. That same minute, at 2:49 p.m., Voucher Tester 6 texted Loebenstein informing him that she would like to move in as soon as possible and that she had a "FHEPS voucher that covers 100%."

231. Loebenstein did not respond to Voucher Tester 6's text.

232. One minute later, Employed Tester 6 texted Loebenstein her email address.

233. Within the minute, Employed Tester 6 received an email from affordablehre@gmail.com with the associated name "Eli (A.H Realty)" containing a link, which redirected to an application entitled, "Affordable Housing Real Estate Corp." and which read, "Thank you for applying to Affordable Housing Real Estate Corp."

234. In that same minute, Loebenstein confirmed that the application was "[s]ent" to Employed Tester 6.

235. The next morning, February 16, 2023, Employed Tester 6 texted Loebenstein at 9:57 a.m. confirming that they were meeting outside of 1145 East 35th Street at 11:00 a.m.

236. One minute later, Loebenstein confirmed their appointment.

237. That same morning, at 10:23 a.m., having received no response, Voucher Tester 6 sent a follow-up text message to Loebenstein reiterating her interest in Apt. 228 at 950 Rutland Road and providing her move-in date, asking whether the apartment was still available, and explaining that she had a voucher that covered all of her rent.

238. Loebenstein did not respond to Voucher Tester 6; however, four minutes after Voucher Tester 6 sent her follow-up email and over thirty minutes before the scheduled meeting time, Loebenstein texted Employed Tester 6 asking what her estimated time of arrival was.

239. After a series of texts in which both Loebenstein and Employed Tester 6 confirmed their expected arrival times, Loebenstein met with Employed Tester to show her 1145 East 35th Street, Apt. 4H, Brooklyn, at 10:55 a.m. on February 16, 2024.

240. During the viewing, Loebenstein confirmed his name again, the tester confirmed her credit (in the 700's for both herself and her husband), household income (\$78,000 combined), and move-in date (March 1 but could "possibly do April 1").

241. During the viewing, Loebenstein confirmed that 1145 East 35th Street, Apt. 4H had a rent of \$1,885 with heat, water, and gas included; the building is rent stabilized; the apartment required a broker's fee of 15% and security of one month's rent; and the move-in date was flexible depending upon the applicant.

242. During the viewing, Loebenstein volunteered that 1145 35th has the same landlords as 950 Rutland Road. Employed Tester 6 asked whether this was why Loebenstein was showing both apartments, to which Loebenstein responded "yes."

243. Employed Tester 6 left the viewing at approximately 11:12 a.m., stating that she needed to speak with her husband about the apartment and telling Loebenstein that her husband was visiting other apartments.

244. Approximately seventeen minutes after the viewing, Loebenstein texted Employed Tester 6 asking her to inform him when she completed the application.

245. Two days later, February 18, 2024, at 7:58 p.m., Loebenstein sent a follow-up text to Employed Tester 6 asking whether she and her husband completed the application.

246. The next day, February 19, 2024, at 4:49 p.m., Employed Tester 6 responded, letting Loebenstein know that she would be renting a different apartment.

247. There were no further communications between Loebenstein and Employed Tester 6.

248. Loebenstein never responded to Voucher Tester 6.

249. In summary, this Affordable salesperson again treated a prospective tenant with a voucher in a disparate and discriminatory fashion compared with a prospective tenant without a voucher and with employment income. The Affordable salesperson communicated with and accommodated a fully employed potential tenant by promptly responding to messages, providing information about additional available apartments, showing the applicant an available apartment, and following up with the applicant when she was non-responsive. Meanwhile, that Affordable salesperson repeatedly ignored a qualified applicant with a voucher, even though the salesperson knew of and was handling an available apartment within the voucher holder's payment standard, owned by the same owners as the apartment about which the voucher tester inquired.

General Allegations

250. As alleged in the foregoing paragraphs, Defendants intentionally and willfully discriminated against Ms. Fowler and Ms. Utley and acted with reckless disregard for the rights of Ms. Fowler and Ms. Utley on the basis of their lawful source of income.

251. FHJC's investigation found that Defendants' treatment of Ms. Fowler and Ms. Utley, and in particular Defendants' ghosting of Ms. Fowler and Ms. Utley, was not merely happenstance. Over six tests, spanning almost one year, and involving three different Affordable salespeople, FHJC's investigation confirmed Affordable's practice of categorically ignoring voucher-holder's inquiries, while assisting non-voucher-holders, on behalf of their principals.

252. Defendants' refusal to assist or to conduct business with voucher holders constitutes discrimination based upon lawful source of income.

253. By reason of the foregoing, Ms. Fowler was denied the opportunity to rent four apartments. As a result, she and her children were forced to remain in an uninhabitable apartment that put her children's health at risk. They were then rendered homeless and lived in a homeless shelter. Ms. Fowler and her children did not have a stable, safe home until almost a year after Ms. Fowler's initial communication with Affordable.

254. By reason of the foregoing, Ms. Fowler has been injured by Defendants' discriminatory conduct and has sustained damages as a result of that conduct, including a loss of her civil rights, emotional distress, humiliation and embarrassment, and loss of housing opportunity.

255. Ms. Fowler has not previously filed any other action with respect to the allegations that are the subject of this Complaint.

256. By reason of the foregoing, Ms. Utley was denied the opportunity to rent an apartment. As a result, she and her child remained in unacceptable living conditions, and remain so to this day.

257. By reason of the foregoing, Ms. Utley has been injured by Defendants' discriminatory conduct and has sustained damages as a result of that conduct, including a loss of her civil rights, emotional distress, humiliation and embarrassment, and loss of housing opportunity.

258. Ms. Utley has not previously filed any other action with respect to the allegations that are the subject of this Complaint.

259. At all relevant times, Affordable acted as agent of Defendants 1261 Associates LLC, 97 Euclid Realty LLC, and 950 Rutland Road Co. LLC.

260. At all relevant times, the real estate salespersons listed herein acted as employees or agents of Affordable and as agents of Defendants 1261 Associates LLC, 97 Euclid Realty LLC, and 950 Rutland Road Co. LLC.

261. Defendants have a nondelegable duty to ensure against and to prevent housing discrimination.

FIRST CLAIM FOR RELIEF

(New York City Human Rights Law: Source of Income Discrimination,
against Affordable)

262. Plaintiffs restate and incorporate by reference the preceding paragraphs as if fully set forth herein.

263. City HRL § 8-102 defines the term “lawful source of income” to include “any form of federal, state, or local public assistance or housing assistance including, but not limited to, section 8 vouchers, whether or not such income or credit is paid or attributed directly to a landlord.”

264. Section 8, FHEPS, and CityFHEPS are included within the City HRL’s definition of “lawful source of income.”

265. Defendant Affordable is a real estate company licensed by the State of New York to broker the rental of apartments. Affordable has employees or agents who act on Affordable’s behalf and on the behalf of various owners of residential real estate to broker the rental of “housing accommodation[s]” in New York City as defined by the City HRL § 8-102(10).

266. Ms. Fowler is an “aggrieved person,” as defined in the City HRL, § 8-502(a), and has suffered damages as a direct and proximate result of Affordable’s discriminatory conduct.

267. Ms. Utley is an “aggrieved person,” as defined in the City HRL, § 8-502(a), and has suffered damages as a direct and proximate result of Affordable’s discriminatory conduct.

268. Section 8-107(5)(a)(1) of the City HRL provides that it shall be:

an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignees, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation . . . or any agent or employee thereof . . . because of any lawful source of income of such person . . . (a) To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any such person or group of persons such a housing accommodation . . . (b) To discriminate against such person or persons in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith, or (c) To represent to such person or persons that any

housing accommodation or an interest therein is not available for inspection, sale, rental or lease when in fact it is available to such person.

269. Section 8-107(5)(c) of the City HRL provides that it shall be:

An unlawful discriminatory practice for any real estate broker, real estate salesperson or employee to agent thereof: (1) To refuse to sell, rent or lease any housing accommodation . . . or an interest therein to any person or group of persons or to refuse to negotiate for the sale, rental or lease of any housing accommodation . . . to any person or group of persons . . . because of any lawful source of income of such person or persons, or to represent that any housing accommodation . . . or an interest therein is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation . . . or an interest therein from any person . . . because of any lawful source of income of such person or persons.

270. Section 8-107(6) of the City HRL makes it “an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or to attempt to do so.”

271. Finally, Section 8-107(13)(a) of the City HRL imposes strict liability upon employers such as Affordable for the discriminatory conduct of their employees and agents. It provides: “An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this section other than subdivisions one and two of this section [i.e., other than the employment sections].”

272. Affordable violated Sections 8-107(5)(a)(1) and 8-107(5)(c) of the City HRL by discriminating against Ms. Fowler and Ms. Utley in the rental of housing accommodations because of their lawful source of income, in the various ways set forth above, including but not limited to, by refusing to rent; by otherwise denying and/or withholding apartments for rent; by discriminating in the terms, conditions, or privileges of the rental of housing accommodations; and by refusing to negotiate for the rental of housing accommodations, all because of Plaintiffs’ lawful source of income.

273. Defendants' conduct was willful, intentional, and in reckless disregard of Ms. Fowler's and Ms. Utley's rights.

274. Accordingly, under City HRL §§ 8-502(a) and (g), Ms. Fowler and Ms. Utley are entitled to actual damages, punitive damages, injunctive relief, reasonable attorneys' fees and costs.

SECOND CLAIM FOR RELIEF

(New York City Human Rights Law: Source of Income Discrimination, against 950 Rutland Road Co. LLC, 1261 Associates LLC, and 97 Euclid Realty LLC)

275. Plaintiffs restate and incorporate by reference the preceding paragraphs as if fully set forth herein.

276. City HRL § 8-102 defines the term "lawful source of income" to include "any form of federal, state, or local public assistance or housing assistance including, but not limited to, section 8 vouchers, whether or not such income or credit is paid or attributed directly to a landlord."

277. Section 8, FHEPS, and CityFHEPS are included within the City HRL's definition of "lawful source of income."

278. Defendants 950 Rutland Road Co. LLC, 1261 Associates LLC, and 97 Euclid Realty LLC ("Owner Defendants") are the owners of "housing accommodation[s]" in New York City as defined by the City HRL § 8-102(10).

279. Ms. Fowler is an "aggrieved person," as defined in the City HRL, § 8-502(a), and has suffered damages as a direct and proximate result of Defendants' discriminatory conduct.

280. Ms. Utley is an “aggrieved person,” as defined in the City HRL, § 8-502(a), and has suffered damages as a direct and proximate result of Defendants’ discriminatory conduct.

281. At all relevant times Defendant Affordable (including its employees and agents) was an agent of the Owner Defendants and acting within the scope of their agency.

282. Section 8-107(5)(a)(1) of the City HRL provides that it shall be:

an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignees, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation . . . or any agent or employee thereof . . . because of any lawful source of income of such person . . . (a) To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any such person or group of persons such a housing accommodation . . . (b) To discriminate against such person or persons in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith, or (c) To represent to such person or persons that any housing accommodation or an interest therein is not available for inspection, sale, rental or lease when in fact it is available to such person.

283. Owner Defendants violated Sections 8-107(5)(a)(1) of the City HRL by discriminating against Ms. Fowler and Ms. Utley in the rental of housing accommodations because of their lawful source of income through their agent Affordable (including its employees and agents) in the various ways set forth above, including but not limited to, by refusing to rent; by otherwise denying and/or withholding apartments for rent; and by discriminating in the terms, conditions, or privileges of the rental of housing accommodations.

284. Owner Defendants’ conduct was willful, intentional, and in reckless disregard of Ms. Fowler and Ms. Utley’s rights.

285. Accordingly, under City HRL §§ 8-502(a) and (g), Ms. Fowler and Ms. Utley are entitled to actual damages, punitive damages, injunctive relief, reasonable attorneys’ fees and costs.

286. Plaintiffs have caused to be served a copy of this complaint upon the City Commission on Human Rights and Corporation Counsel, pursuant to Administrative Code § 8-502(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests judgment against Defendants as follows:

- (a) Declaring that Defendants' discriminatory practices violate City HRL § 8-107 *et seq.*
- (b) Enjoining Defendants, Defendants' agents, employees, and successors, and all other persons in active concert or participation from:
 - (i) Refusing to rent or otherwise denying or withholding housing, or making housing unavailable, on the basis of lawful source of income, including not replying to inquiries and communications;
 - (ii) Representing to any person because of lawful source of income that a dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available and limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale, or rental because of lawful source of income;
 - (iii) Discriminating against any person in the terms, conditions, or privileges of rental of a dwelling because of lawful source of income; and
- (c) Enjoining Defendants and their agents, employees, successors, and all other persons in active concert or participation to:
 - (i) Make all necessary modifications to policies, practices, and procedures to comply with the City HRL, including providing information about and

- showing apartments to prospective renters on an equal basis without regard to lawful source of income;
- (ii) Train all current and future management, agents, and employees on fair housing laws;
 - (iii) Display an Equal Opportunity logo (or statement to that effect) on all advertisements for rental property and display fair housing posters in all offices;
 - (iv) Notify New York City organizations assisting prospective renters using vouchers that Defendants have adopted non-discriminatory rental policies;
 - (v) Allow monitoring of their advertising, listings, showing of apartments, application process, and rental decisions for multiple years;
 - (vi) Retain records, including advertising and rental records, to allow for appropriate monitoring;
 - (vii) Develop written procedures on rental process and fair housing policy to be distributed to all staff, tenants, and rental applicants;
 - (viii) Establish a system so that their employees and agents can be tested for unlawful discriminatory practices for multiple years;
 - (ix) Attend fair housing training, conducted by a third-party acceptable to Plaintiffs and at Defendants' expense, which shall be attended by Defendants' owner and all employees whose job duties relate to the rental of apartments, including Defendants' brokers, salespersons, and agents.
- (d) Awarding such damages to Plaintiffs as will fully compensate them for any loss of rights, as well as for the humiliation, embarrassment, and emotional distress

suffered due to Defendants' discriminatory conduct, and the loss of housing opportunities;

- (e) Awarding punitive damages to Plaintiffs;
- (f) Awarding Plaintiffs reasonable attorneys' fees and costs incurred in prosecuting this action; and
- (g) Granting Plaintiffs such other and further relief as may be just and proper.

DATED: Brooklyn, New York
November 21, 2024

Respectfully submitted,

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