

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

_____ X

FAIR HOUSING JUSTICE CENTER, INC. and
NAOMI HENDERSON,

Index No.
Date Purchased:

Plaintiffs,

-against-

SUMMONS

BEACH HAVEN APARTMENTS ASSOCIATES LLC;
1402 OWNERS CORP.; APARTMENT
MANGEMENT ASSOCIATES LLC d/b/a REVONA
PROPERTIES; ERN GROUP INC. d/b/a ERN FLATS;
RUBIN SCHRON; HERB DUMAIN; JIMIT SHAH;
and SIMI FISHOF,

Basis for Venue:
CPLR § 503(a)

Defendants.

_____ X

TO THE ABOVE-NAMED DEFENDANTS:

Beach Haven Apartments Associates LLC
45 Broadway, 25th Floor
New York, New York 10006

1402 Owners Corp.
1660 49th Street, P.O. Box 040308
Brooklyn, New York 11204

Apartment Management Associates LLC d/b/a Revona Properties
626 Sheepshead Bay Road, Suite 620
Brooklyn, New York 11224

ERN Group Inc. d/b/a ERN Flats
2392 Nostrand Avenue, 2nd Floor
Brooklyn, New York 11210

Rubin Schron
1800 East 9th Street, Apt. 1
Brooklyn, New York 11223

Herb Dumain
4406 Beach 44th Street, Apt. 1
Brooklyn, New York 11224

Jimit Shah
626 Sheepshead Bay Road, Suite 620
Brooklyn, New York 11224

Simi Fishof
960 East 22nd Street
Brooklyn, New York 11210

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer on Plaintiffs' counsel within twenty (20) days of the service of this Summons, exclusive of the day of service (or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

Plaintiffs hereby designate Kings County as the place of trial pursuant to CPLR § 503(a).

DATED: New York, New York
August 30, 2022

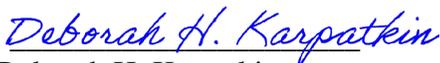
Respectfully submitted,

CUTI HECKER WANG LLP

By: 
Mariann Meier Wang
Heather Gregorio
305 Broadway, Suite 607
New York, New York 10007
(212) 620-2600

*Attorneys for Plaintiff Fair Housing
Justice Center, Inc.*

LAW OFFICE OF DEBORAH H.
KARPATKIN

By: 
Deborah H. Karpatkin
99 Park Avenue, Suite 2600
New York, New York 10016
(646) 865-9930

*Attorney for Plaintiff Naomi
Henderson*

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FAIR HOUSING JUSTICE CENTER, INC. and
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COMPLAINT

BEACH HAVEN APARTMENTS ASSOCIATES LLC;
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MANGEMENT ASSOCIATES LLC d/b/a REVONA
PROPERTIES; ERN GROUP INC. d/b/a ERN FLATS;
RUBIN SCHRON; HERB DUMAIN; JIMIT SHAH;
and SIMI FISHOF,

Defendants.

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Plaintiff Fair Housing Justice Center, Inc. (“FHJC”), by and through its attorneys,
Cuti Hecker Wang LLP, and Plaintiff Naomi Henderson, by and through her attorney, Law
Office of Deborah H. Karpatkin, for their Complaint allege as follows:

NATURE OF THE ACTION

1. This action seeks to address Defendants’ policy and practice of flagrantly discriminating against potential rental tenants based on their source of income.
2. Over and over – and over again – Defendants have simply refused to engage with prospective tenants who inform them that they receive government rental assistance or vouchers. State and local law flatly prohibits this behavior: regardless of how prospective tenants pay their rent and whether they receive a subsidy to do so, they must be given a fair opportunity to hear about, view, and ultimately apply for available apartments. Defendants routinely violate these

laws by asking about prospective tenants' income and then "ghosting" or failing entirely to respond to those potential tenants who disclose their use of a housing voucher.

3. The federal and city voucher programs at issue were created to ensure that the most vulnerable individuals and families have access to safe and stable housing. These programs are more important than ever: In recent months, New York City has faced an increasingly severe housing shortage as pandemic-era safety nets have ended and rents have risen.

4. The Housing Choice Voucher Program, often referred to as "Section 8," is a federal program administered by the New York City Housing Authority and other agencies that seeks to enable low-income households to rent decent, safe, and affordable housing in the private market by providing direct rental assistance to those who qualify. CityFHEPS is a New York City rental assistance supplement program administered by the New York City Department of Social Services that similarly seeks to help individuals and families, who are living in shelters, or at high risk of entering shelters, to find safe and stable housing. Finally, HASA is a program administered by the New York City Human Resources Administration (HRA) for individuals diagnosed with HIV and AIDS that aims to help such individuals live healthier, more independent lives, including by providing rental assistance.

5. The whole point of the Housing Choice Voucher Program, CityFHEPS program, and HASA program (the "Voucher Programs") is to provide landlords, management companies, and real estate agents with assurance that program participants will be able to pay their rent by providing vouchers that guarantee most if not all of the rent. When landlords, management companies, and/or real estate agents refuse to rent to voucher recipients anyway, they puncture the critical safety net that the Voucher Programs are designed to provide for New York City's most vulnerable residents.

6. Defendants own, manage, and/or show apartments in three residential apartment buildings located at 9-49 Murdock Court, 2662 West 2nd Street, and 1402 West 4th Street in Brooklyn (together, the “Subject Properties”).

7. Plaintiff FHJC is a non-profit civil rights organization that is dedicated to eliminating housing discrimination, promoting policies that foster open, accessible, and inclusive communities, and strengthening enforcement of fair housing laws.

8. Plaintiff Naomi Henderson is an individual who was at the time of the events set forth herein provided a monthly CityFHEPS voucher for \$1,945 to cover 100% of her rent. She is currently living in a homeless shelter. In March 2022, a real estate agent representing Ms. Henderson contacted Defendants affiliated with both 9-49 Murdock Court and 1402 West 4th Street on Ms. Henderson’s behalf to inquire about apartments listed on StreetEasy in both buildings. Defendants Shah and Fishof responded to the inquiries, respectively, and asked about Ms. Henderson’s income. Once the agent disclosed that Ms. Henderson would be using a CityFHEPS voucher, neither Shah nor Fishof responded further.

9. After Ms. Henderson’s agent contacted FHJC on Ms. Henderson’s behalf, FHJC conducted a series of tests in April 2022 to determine if Defendants were discriminating against prospective tenants with vouchers in a systemic fashion. These tests proved conclusively that Defendants have a policy and practice of ghosting prospective tenants who disclose that they will use vouchers, even while contemporaneously – often the same day – responding enthusiastically to prospective tenants whose income comes solely from employment and providing information about available apartments and tours to those individuals. This invidious disparate treatment is in plain violation of the law and must be remedied.

PARTIES

10. Plaintiff Fair Housing Justice Center, Inc. is a New York not-for-profit corporation that is headquartered in Queens County, New York.

11. Plaintiff Naomi Henderson is an individual who resides in Queens County, New York.

12. Defendant Beach Haven Apartments Associates LLC is a domestic limited liability company that is headquartered in Kings County, New York. Defendant Beach Haven Apartments Associates LLC is one of the owners of the properties located at 9-49 Murdock Court (“9-49 Murdock Ct.”) and 2662 West 2nd Street in Brooklyn (“2662 West 2nd Street”) (together, the “Beach Haven Apartments”).

13. Defendant Rubin Schron is a natural person who upon information and belief resides in Kings County, New York. Upon information and belief, Defendant Schron was at all relevant times an owner of the Beach Haven Apartments.

14. Defendant Herb Dumain is a natural person who upon information and belief resides in Kings County, New York. Upon information and belief, Defendant Dumain was at all relevant times an owner of 2662 West 2nd Street.

15. Defendant 1402 Owners Corp. is a domestic business corporation that is headquartered in Kings County, New York. Defendant 1402 Owners Corp. is the owner of the property located at 1402 West 4th Street in Brooklyn, known as Theda Garden and/or Theda Gardens (“Theda Garden”).

16. Defendant Apartment Management Associates LLC d/b/a Revona Properties (“Revona Properties”) is a domestic limited liability company that is headquartered in Kings County, New York. Upon information and belief, Revona Properties owns and/or manages at

least 29 properties throughout New York City, including in Brooklyn, Queens, Manhattan, and Staten Island. Upon information and belief, at all times relevant to this action, Revona Properties managed and/or otherwise controlled the residential apartment buildings located at 9-49 Murdock Court in Brooklyn, New York and at 2662 West 2nd Street in Brooklyn, New York.

17. Defendant Jimit Shah is a natural person who upon information and belief resides in Queens County, New York. Upon information and belief, Defendant Shah was at all relevant times an employee of Revona Properties acting within the scope of his employment. Upon information and belief, Defendant Shah is not a licensed real estate broker.

18. Defendant ERN Group Inc. d/b/a ERN Flats (“ERN Flats”) is, on information and belief, a domestic business corporation headquartered in Brooklyn, New York.

19. Defendant Simi Fishof is a natural person who upon information and belief resides in Kings County, New York. Upon information and belief, Defendant Fishof was at all relevant times holding herself out as a real estate agent with ERN Flats acting within the scope of her employment. Upon information and belief, at all relevant times, Fishof’s real estate license had expired (on or around April 12, 2020) and had not been renewed.

JURISDICTION AND VENUE

20. This Court has personal jurisdiction over Defendants pursuant to CPLR § 301 *et seq.* because Defendants are domiciled and/or regularly transact business in the State of New York, and because the wrongful conduct alleged in this Complaint took place in the State of New York.

21. Venue is proper in this County pursuant to CPLR § 503(a).

JURY DEMAND

22. Plaintiffs demand a trial by jury.

FACTS

The Listed Apartment Units

23. In or about March and April 2022, Defendant Revona Properties publicly advertised on StreetEasy.com that certain apartments – specifically Apartments G4 and 5E – were available for rent at 9-49 Murdock Ct. The rents were listed as \$1,399 per month and \$1,875 per month respectively.

24. In or around early April 2022, Defendant Revona Properties publicly advertised on StreetEasy.com that Apartment 4F was available for rent for \$1,450 per month at 2662 West 2nd Street in Brooklyn, New York.

25. In or about March and April 2022, Defendant Simi Fishof of Defendant ERN Flats publicly advertised on StreetEasy that Apartment C16 in Theda Garden was available for rent. The rental price was initially listed at \$1,799 per month; it was later lowered on or about March 28 to \$1,749 per month.

The Discrimination Experienced by Plaintiff Henderson

26. Ms. Henderson was provided a CityFHEPS voucher in 2021 for \$1,945/month that would cover 100% of her rent up to that amount.

27. In spring 2022, she was living in a homeless shelter and actively searching for an apartment.

28. Ms. Henderson contacted a real estate agent in connection with an apartment she was interested in. She was not able to rent that apartment because it was a walk-up apartment

and Ms. Henderson has mobility issues. But she began working with that agent to help her find another apartment.

29. Unfortunately, over the course of three days in March, Ms. Henderson was discriminated against by Defendants concerning both 9-49 Murdock Court and Theda Garden.

30. On March 21, 2022, Ms. Henderson's agent submitted an inquiry through StreetEasy asking if he and Ms. Henderson could view Apartment G4 in 9-49 Murdock Court. The apartment was listed for \$1,399/month, well within the amount covered by Ms. Henderson's monthly CityFHEPS voucher.

31. Defendant Shah sent Ms. Henderson's agent an email the following day, March 22, 2022, asking when they were available for a tour. Ms. Henderson's agent responded promptly that they could view the apartment the next day, March 23.

32. Shah responded, writing: "Thank you for reaching out! Before we setup the viewing, can you please confirm: 1. Is your client's credit over 650? 2. Is your client's household income above \$50000? (on paper)".

33. The agent responded and told Shah that Ms. Henderson had a CityFHEPS voucher, and that "this unit fits within her allocated award allowance administered by the state."

34. Shah then stopped responding to Ms. Henderson's agent, even after the agent followed up later that day and again the following day. In his last email to Shah, the agent wrote: "Please note that my client is both legally eligible to not only rent this apartment, but also to view it as well before applying, should she wish to do so." In short, the agent plainly informed Shah of existing law, of which he should already have been aware.

35. On March 23, 2022, Ms. Henderson's real estate agent sent a message to Defendant Fishof regarding the StreetEasy listing for Apartment C16 in Theda Garden. Ms.

Fishof was the listed agent for the apartment, which was at the time listed for \$1,799, also within the amount covered by Ms. Henderson's monthly CityFHEPS voucher.

36. In his message, the agent asked Ms. Fishof if he could schedule an appointment to view the apartment that day with his client Ms. Henderson.

37. Within a few minutes, Fishof responded: "Hi what's the income and credit of ur [sic] client[.]"

38. Ms. Henderson's agent promptly responded, informing Fishof that Ms. Henderson was "on CityFHEPS vouchers as this unit fits within her allocated award allowance administered by the state."

39. Fishof did not respond to Ms. Henderson's agent after that point, even after he followed up by text message.

40. After observing Defendants' discriminatory treatment of his client, Ms. Henderson's real estate agent reached out to FHJC. FHJC organized a series of tests to determine whether Defendants were systemically discriminating against potential tenants on the basis of their source of income.

Systemic Discrimination Revealed at the Beach Haven Apartment Buildings

41. On April 4, 2022 a FHJC tester posing as a prospective tenant ("Tester 1") sent tour requests for both Apartment G4 and Apartment 5E at 9-49 Murdock Court (the first building where Ms. Henderson unsuccessfully tried to view and rent an apartment) through the StreetEasy website. She followed up the following morning with a message through StreetEasy to "Beach Haven Leasing," stating that she was "interested in a 1-bed or studio at 9 Murdock court."

42. At approximately 10:30 a.m. on April 5, Defendant Shah sent Tester 1 an email, asking when she was available for a tour. He identified himself in his signature as a “Leasing Specialist” for Revona Properties.

43. Tester 1 replied promptly, asking if she could take a tour at 1 p.m. the following day.

44. Shah responded a few minutes later, writing: “Thanks for reaching out! Before we setup the viewing, can you please confirm: 1. Is your credit over 700? 2. Is your household income above \$75000? (on paper)?”

45. Tester 1 replied at 11:03 a.m. that she had “a CityFHEPS subsidy which will cover all of the rent.” She then asked again if they could meet for a tour at 1 p.m. the following day, April 6.

46. Having learned that Tester 1 would be using a CityFHEPS voucher, Shah then “ghosted” her, failing to respond to her email or her follow up communications.

47. Tester 1 sent Shah follow up emails on April 7 and April 14, asking if there were any other Beach Haven apartments available in her price range. Shah never replied.

48. At 12:06 p.m. on April 11, 2022, another FHJC tester posing as a prospective tenant (“Tester 2”) sent a tour request for Apartment 4F in 2662 West 2nd Street (another Beach Haven building around the corner from 9-49 Murdock Court, the building in which Ms. Henderson and Tester 1 had sought apartments). Tester 2 followed up at 1:35 p.m. by sending a message to Beach Haven Leasing stating that he was interested in Apartment 4F.

49. Approximately an hour later, at 2:40 p.m., Shah emailed Tester 2, asking when Tester 2 was available for a tour.

50. Tester 2 replied within a few minutes, asking if he could take a tour on April 13 at 1:30 p.m.

51. At 8:45 a.m. the following morning, April 12, Shah replied to Tester 2 with a nearly identical email to the one he had sent Tester 1, though reflecting a different income threshold: “Thanks for reaching out! Before we setup the viewing, can you please confirm: 1. Is your credit over 700? Is your household income above \$56000? (on paper).”

52. Tester 2 replied at 8:51 a.m., stating: “Yes to both questions. I make around 60k a year. And my credit is around 720[.]” He then asked again if the following day at 1:30 p.m. was a good time for a tour.

53. Shah responded at 9:09 a.m., writing “Thank you! My coworker Jacob will be on site to show you the units at 1.30 pm tomorrow.” He gave Tester 2 the cell phone number of his colleague Jacob Beda.

54. Tester 2 responded promptly, confirming the appointment. Shah then followed up by asking Tester 2 for his cell phone number and sending a Google Invite to Tester 2 and Beda.

55. Tester 2 provided a phone number and Shah thanked him enthusiastically.

56. The following morning, April 13, at 9:07 a.m., Beda emailed Tester 2 to confirm the tour again, and Tester 2 replied with a confirmation.

57. Then at 10:25 a.m., Beda texted Tester 2, instructing Tester 2 to meet him at 49 Murdock Court (instead of at 2662 West 2nd Street).

58. At approximately 1:30 p.m., Tester 2 met Beda at 49 Murdock Court as planned. Beda informed Tester 2 that there was an application on the apartment at 2662 West 2nd Street, but that he had two more apartments in 49 Murdock Court that he was going to show Tester 2.

He proceeded to show Tester 2 both 5G and G4 in 9-49 Murdock Court (the latter being the exact apartment Ms. Henderson and Tester 1 had inquired about).

59. Beda was friendly and enthusiastic as he showed Tester 2 the apartments, making small talk and recommending positive features of the building. He told Tester 2 that the monthly rent for 5G was \$1,450 and that it would be ready in about a week and a half. He told him that the monthly rent for G4 would be \$1,425 and that it would be ready that Friday or the following Monday.

60. When Tester 2 asked about the application process, Beda told him that he would have to upload “paystubs, bank statements, etc...” and that once those documents were uploaded, Beda or management would give him an answer within 24 to 48 hours.

61. Tester 2 asked if there was a wait list for the apartments, and Beda told him that it was “first come, first serve, so whoever sends in the application, it’s on hold until I get an answer that it’s either approved or denied.”

62. Tester 2 informed Beda that he was planning to look at a few other places, and Beda told him that he could text Beda to follow up.

63. Meanwhile, the day before, on April 12, 2022 at 12:13 p.m., another FHJC tester posing as a potential tenant (“Tester 3”) had sent a message through StreetEasy to Beach Haven Leasing, stating that he was interested in seeing Apartment 4F at 2662 West 2nd Street. He followed up approximately two hours later, sending a tour request for 4F.

64. The following morning, April 13, at 9:18 a.m., Shah emailed Tester 3, asking when he was available for a tour.

65. Tester 3 responded at 10:01 a.m., asking if 12:30 p.m. the following day would work for a tour.

66. Shah responded two minutes later with the same message he had sent to Tester 2: “Thanks for reaching out! Before we setup the viewing, can you please confirm: 1. Is your credit over 700? Is your household income above \$56000? (on paper).”

67. Tester 3 responded at 10:23 a.m., writing: “My credit is very good over 700. I am using a HASA voucher that goes up to \$1900 for a studio. This looks like a nice studio and [I] would like to schedule a time to see it.”

68. Once again, having learned that Tester 3 would be using a housing voucher, Shah ghosted him, failing to respond to this message or to a follow up email at 2:01 p.m. asking again if they could confirm a time for Tester 3 to view the apartment. Shah failed to respond notwithstanding that at almost that exact time on April 13, Beda was showing two apartments to Tester 2 – who had also originally inquired about 2662 West 2nd Street – and telling him that they were “first come, first serve.”

Discrimination at Theda Garden

69. On April 4, 2022, at approximately 10:25 a.m., a tester posing as a prospective tenant (“Tester 4”) called and spoke to Defendant Fishof, inquiring about the availability of Apartment C16 in Theda Garden (the specific apartment that Ms. Henderson had requested to view in Theda Garden).

70. Before she would even tell Tester 4 that the apartment was available, Fishof asked Tester 4 for her credit score.

71. Tester 4 informed Fishof that her income was \$70,000 and her credit score was “very good,” saying that she had not checked it lately.

72. Apparently satisfied with this answer, Fishof responded “great” and offered to show Tester 4 the apartment that day, agreeing to meet her at 1 p.m. at Theda Garden.

73. As planned, Tester 4 met Fishof at Theda Garden at approximately 1 p.m. and Fishof showed her Apartment C16. Fishof told Tester 4 that it was a co-op building, but that it “[did]n’t make a difference . . . for a tenant” because the landlord owned certain apartments in the building and rented them out.

74. When Tester 4 inquired about the application process, Fishof told her that she would first fill out an application and “upload [her] income documents,” then “they” would bring her in for a meeting to “meet [her] and talk to [her]” before running her credit.

75. Tester 4 told Fishof that she was not sure the apartment was right for her, but that she would give it some thought.

76. Over the following few days, two testers posing as prospective tenants with housing vouchers received very different treatment.

77. On April 5, at approximately 2 p.m., a tester posing as a prospective tenant (“Tester 5”) called Defendant Fishof and inquired about the same apartment, C16, asking her if it was still available.

78. Once again, Fishof immediately asked: “Uh, what’s your income and your credit score?” Tester 5 said “it’s good,” and asked again if the unit was available.

79. Fishof confirmed that the apartment was still available for \$1,750 per month and asked if Tester 5 wanted to view it.

80. Tester 5 then informed Fishof that her income was \$38,500, her credit was 740, and that she would be using a Section 8 voucher.

81. They discussed finding a time for Tester 5 to view the apartment, and Fishof told Tester 5 to text her with her availability. But as was her practice, Fishof apparently had no

intention of responding to any further communications from Tester 5, having learned that she would be using a housing voucher.

82. Tester 5 followed up by text later that day, at 4:28 p.m., as Fishof had instructed, telling her that she was available to view the apartment the following morning.

83. Fishof never responded to Tester 5's text message.

84. Two days later, on April 7, 2022, at approximately 11:35 a.m., another tester posing as a prospective tenant ("Tenant 6") called Defendant Fishof and asked whether Apartment C16 in Theda Garden was still available.

85. Fishof told her that she had "people interested" in the apartment but that they had not signed a lease yet.

86. Fishof then asked Tester 6 for her income and credit score.

87. Tester 6 responded that she was on disability and received \$10,000 per year for her disability, but that she had a CityFHEPS voucher that would cover the rent in its entirety.

88. Fishof asked when Tester 6 could view the apartment. But when Tester 6 asked if she could come in that day, Fishof backtracked and put her off, tell her to call her the following day to set up a time, adding "I also want to make sure the people don't go in and sign the lease before I waste your time."

89. The following day, April 8, Tester 6 texted Fishof at 10:50 a.m., asking if the apartment was still available. When Fishof did not respond, Tester 6 sent another text at 4:13 p.m. Fishof responded at 4:38 p.m.: "Hi check in Monday."

90. On Monday April 11, as instructed, Tester 6 called Fishof at approximately 10 a.m. and left her a voicemail, and also sent her a text message at 11:16 a.m. asking whether she

could view the apartment, saying that she was available all day. She called Fishof again at approximately 2 p.m. but Fishof did not pick up.

91. Fishof never responded to Tester 6.

92. Meanwhile, a few days earlier on April 8, another tester posing as a prospective tenant with income solely from employment (“Tester 7”) had called Fishof at approximately 3:20 p.m. to inquire about the same apartment, C16 in Theda Garden. Fishof told him that it was still available for \$1,750 per month, and asked for his income and credit score.

93. Tester 7 informed Fishof that his income was \$70,000 per year and that his credit was “very good” the last time he had checked it.

94. Fishof asked further “Do you work? What do you . . . do?” and when he said that he was an account manager at Xerox, she replied, “ok, so yeah [we could] see some paystubs. That was my real question.”

95. Tester 7 said “You guys need a couple of paystubs, is that what you’re saying?”

96. Fishof replied: “Yeah . . . You would have [them] in that kind of job . . . Some jobs are like harder, . . . they work for themselves or whatever.”

97. When Tester 7 asked about the application process, Fishof said that he would fill out an application, then he would go to the office where “they” would talk to him and review his documents. If “they, you know, decide[d] to move forward, they would run [his] credit” and he would pay an application fee.

98. Fishof told him that the unit was vacant and ready, and that a move-in date by the end of the month was “perfect.”

99. They discussed a time for Tester 7 to view the apartment, and Tester 7 requested a time on Monday. As Fishof had told Tester 6, she told Tester 7 to check in on Monday morning.

She further told Tester 7 that she would be working in the area on Monday and would be available to show the apartment.

100. Tester 7 called Fishof on Monday, April 11 at approximately 10:45 a.m., between the time Tester 6 had called Fishof and the time Tester 6 had texted her. But while she ignored Tester 6's call and text, Fishof picked up Tester 7's call. Fishof asked him again for his income and credit score. Once he again told Fishof that his income was \$70,000 and his credit was very good, she said, "Ok great, when are you able to come take a look at the place?"

101. They arranged for him to view the apartment that day, even though Fishof said she might not be in the area that afternoon.

102. At approximately 12:30 p.m. that day, April 11, Tester 7 visited Theda Garden, and as instructed by Fishof, viewed Apartment C16 on his own.

103. Fishof followed up with Tester 7 promptly, texting him at 1:09 p.m. to ask if he had gotten into the apartment. Tester 7 replied that he would call when he was off the train.

104. Tester 7 called Fishof at approximately 2:30 p.m., half an hour after Tester 6 had called Fishof and received no response. Once again, though Fishof had just ignored Tester 6, she picked up Tester 7's phone call. When Tester 7 told her that he was not sure about the apartment and wanted to view others, Fishof volunteered information about additional apartment buildings, telling him about one-bedrooms in Bensonhurst that were "beautiful," even cheaper, and rent stabilized.

105. Tester 7 said that he would think about it, and asked her to send him an application in the meantime.

106. In sum, both Shah and Fishof acted as agents and gatekeepers for the Beach Haven Apartments and Theda Garden respectively, asking Ms. Henderson and the testers to disclose their income before agreeing to show them available units. Testers who stated that they met minimum income requirements from employment sources received warm responses, tours of the apartments, and even information about available apartments in other buildings. In stark contrast, Ms. Henderson and the testers who stated that they would be using government vouchers to cover the rent were completely ghosted by Defendants Shah and Fishof, and were thus effectively blocked from taking tours or applying for available units. The timing of the tests – in which Defendants Shah and Fishof responded positively to testers with income from employment both before and after entirely ghosting testers with vouchers, regarding the same apartment units – confirms that Shah and Fishof’s behavior cannot be explained by changes in unit availability. The only explanation is discrimination.

107. FHJC’s testing established that the discrimination Ms. Henderson experienced was not an isolated incident, or merely the result of apartments not being available in the Subject Properties. Instead it was part of a systemic scheme to prevent housing voucher participants from accessing housing in Defendants’ buildings.

108. Defendants’ actions caused and continue to cause Ms. Henderson emotional distress and financial and physical suffering and hardship. She remains homeless and living in a shelter. Defendants’ discriminatory actions have also frustrated FHJC’s mission of eliminating housing discrimination in New York City and have caused FHJC to expend substantial resources in investigating and seeking to remedy this discrimination.

109. This source of income discrimination is illegal and egregious and will continue to perpetuate the housing segregation already rampant in New York City. It must be addressed.

FIRST CAUSE OF ACTION
Violations of the New York City Human Rights Law
(Source of Income Discrimination)

110. Each of the foregoing paragraphs is hereby repeated and incorporated by reference as if fully set forth herein.

111. HRL § 8-102(25) defines the term “lawful source of income” to include “income derived from social security, or any form of federal, state or local public assistance or housing assistance including . . . section 8 vouchers.”

112. Section 8, CityFHEPS, and HASA vouchers are included within the NYCHRL’s definition of “lawful source of income.”

113. HRL §§ 8-107(5)(a)(1) and (5)(c)(1) prohibit landlords and brokers from refusing to rent an apartment to a prospective tenant because of “any lawful source of income.”

114. Defendants have a policy and practice of refusing to rent available apartments at the Subject Properties to prospective tenants because of their lawful source of income.

115. Defendants’ violations of the NYCHRL were knowing and purposeful.

116. As a direct and proximate result of Defendants’ knowing and purposeful violations of the NYCHRL, Plaintiffs have suffered economic loss, emotional distress, diversion of resources, and frustration of mission damages in an amount to be determined at trial.

117. Defendants’ conduct was willful and wanton, and they acted with a conscious disregard of the rights of others or conduct so reckless as to amount to such disregard.

118. An award of punitive damages pursuant to HRL § 8-502(a) is therefore warranted.

119. Plaintiffs have no adequate remedy at law and therefore are entitled to injunctive relief.

SECOND CAUSE OF ACTION
Violations of the New York State Human Rights Law
(Source of Income Discrimination)

120. Each of the foregoing paragraphs is hereby repeated and incorporated by reference as if fully set forth herein.

121. New York Executive Law § 292(36) 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, or any other form of housing assistance payment or credit whether or not such income or credit is paid or attributed directly to a landlord, and any other forms of lawful income.”

122. Section 8, CityFHEPS, and HASA vouchers are included within the Executive Law’s definition of “lawful source of income.”

123. Executive Law § 296(5)(a) and (c) prohibits landlords and brokers from refusing to rent an apartment to a prospective tenant because of any “lawful source of income.”

124. Defendants have a policy and practice of refusing to rent available apartments at the Subject Properties to prospective tenants because of their lawful source of income.

125. Defendants’ violations of the Executive Law were knowing and purposeful.

126. As a direct and proximate result of Defendants’ knowing and purposeful violations of the Executive Law, Plaintiffs have incurred economic loss, emotional distress, diversion of resources, and frustration of mission damages in an amount to be determined at trial.

127. Defendants’ conduct was willful and wanton, and they acted with a conscious disregard of the rights of others or conduct so reckless as to amount to such disregard.

128. An award of punitive damages is therefore warranted.

129. Plaintiffs have no adequate remedy at law and therefore are entitled to injunctive relief.

WHEREFORE, Plaintiffs respectfully request that the Court grant the following relief:

- A. Providing an apartment to Ms. Henderson which she may pay for through her current voucher;
- B. Ensuring that a set percentage of future openings likewise be used for voucher or government-subsidized tenancies in order to remedy past discrimination;
- C. Temporarily, preliminarily, and permanently enjoining Defendants from engaging in unlawful source of income discrimination;
- D. Awarding compensatory damages to Ms. Henderson, including for the economic losses, emotional distress, and financial and physical suffering and hardship she suffered and continues to suffer resulting from Defendants' discriminatory acts, and to FHJC for the diversion of its resources and frustration of its mission, in an amount to be determined at trial;
- E. Awarding punitive damages pursuant to HRL § 8-502(a) and Executive Law § 297(9);
- F. Awarding Plaintiffs attorneys' fees and costs pursuant to HRL § 8-502(g) and Executive Law § 297(10);
- G. Awarding pre- and post-judgment interest on all such monetary, compensatory and punitive awards and/or attorneys' fees and costs; and
- H. Awarding such other and further relief as this Court deems just, proper, and equitable.

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Respectfully submitted,

CUTI HECKER WANG LLP

By: *Mariann Wang*

Mariann Meier Wang
Heather Gregorio
305 Broadway, Suite 607
New York, New York 10007
(212) 620-2600

*Attorneys for Plaintiff Fair Housing
Justice Center, Inc.*

LAW OFFICE OF DEBORAH H.
KARPATKIN

By: *Deborah H. Karpatkin*

Deborah H. Karpatkin
99 Park Avenue, Suite 2600
New York, New York 10016
(646) 865-9930

Attorney for Plaintiff Naomi Henderson