

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

STEPHANIE GATES, Complainant

v.

**THE NEW COREY CREEK APARTMENTS, INC, and CHARLES WOOD, MANAGER,
Respondents**

DOCKET No. H-8304

STIPULATIONS OF FACT

The following facts are admitted by all parties to the above captioned case and no further proof thereof shall be required:

1. The Complainant herein is Stephanie Gates.
2. The Respondents herein are The New Corey Creek Apartments and Charles Wood, who was at all times relevant hereto, Manager.
3. On or about November 24, 2000, Complainant timely filed a verified complaint against Respondents, with the Pennsylvania Human Relations Commission (hereinafter Commission).
4. The Complaint was served upon Respondents on December 21, 2000.
5. Respondent answered the Complaint.
6. Following an investigation, a probable cause finding was approved by the legal division on June 25, 2001, and Respondents were notified of the finding.
7. A conciliation meeting was scheduled for September 14, 2001, but failed to resolve the matter.
8. The case was approved for Public Hearing by the Executive Director and was placed on the Public Hearing Docket by the Commission at its February, 2002 meeting.

These Stipulations of Fact, together with the Witness List submitted by each party will become a part of the official record in this case and will be incorporated into the transcript prepared during the course of any subsequent Public Hearing held in this matter.

By Claude I. Schoenberg, Esquire – 6/3/03
Counsel for the Respondent

By: William R. Fewell, Esquire – 6/3/03
Counsel for the Commission in support of the Complainant

By: Jarett R. Smith, Esquire – 6/3/03
Counsel for the Complainant

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FINDINGS OF FACT *

1. The Complainant in this case is Stephanie Gates, (hereinafter "Gates"), an adult African American female. (S.F. 1).
2. The Respondents in this case are The New Corey Creek Apartments, Inc., (hereinafter "Corey Creek"), and Charles Wood, at all relevant times, Manager of Corey Creek, (hereinafter "Wood"). (S.F. 2; N.T. 25, 150, 244, 445).
3. Corey Creek is a 54 unit apartment complex in Mansfield, Pennsylvania. (N.T. 20, 463).
4. The 54 units at Corey Creek are one and two bedroom apartments equally divided in two three-story buildings: Building A and Building B. (N.T. 217, 464).
5. On October 7, 1999, Gates submitted an application to rent an apartment at Corey Creek. (C.E. 2).
6. The President of Corey Creek, Ronald Laessig, (hereinafter "Laessig") approved Gates' application. (N.T. 433, 434).
7. On November 1, 1999, Gates and Corey Creek entered into a year lease beginning on November 1, 1999 and ending on October 31, 2000, for apartment A-110 at Corey Creek. (N.T. 238, 242, 435; C.E. 3)
8. The total rent for apartment A-110 was \$6,300.00, payable monthly in the amount of \$525.00. (N.T. 238, 435; C.E. 3).

* The foregoing "Stipulations of Facts" are hereby incorporated herein as if fully set forth. To the extent that the Opinion which follows recites facts in addition to those here listed, such facts shall be considered to be additional Findings of Facts. The following abbreviations will be utilized throughout these Findings of Fact for reference purposes:

N.T. Notes of Testimony
C.E. Complainant's Exhibit
R.E. Respondent's Exhibit
S.F. Stipulation of Fact

9. The monthly rental payments were due on the first day of each month and payments were to be made to Corey Creek offices located in Fort Washington, Pennsylvania. (C.E. 3).

10. The lease provided for a 5% penalty on rents paid late. (C.E. 3).
11. Additionally, the lease provided for a \$25.00 penalty for a returned check. (C.E. 3).
12. Gates also paid a \$500.00 security deposit. (N.T. 239; C.E. 3).
13. While living in Apartment A-110 at Corey Creek, Gates resided with her daughter, Melissa Tyson, and her foster daughter. (N.T. 184, 190, 238, 299, 401).
14. Gates was employed at the Mansfield University and worked weekdays from 6:00 a.m. until 2:00 p.m. (N.T. 268).
15. Gates' mother, Pearl Smith, also lived at Corey Creek, in apartment A-108, across the hall from Gates. (N.T. 179, 180, 184, 185).
16. At the time of the Public Hearing, Pearl Smith had been a resident at Corey Creek for the previous five years. (N.T. 180).
17. Corey Creek employed maintenance men to make repairs in apartments and to perform overall maintenance tasks throughout Corey Creek. (N.T. 16, 105).
18. Intermittently, during Gates' tenancy, Corey Creek, employed Charles Lisk as a maintenance man and for a four to five week period in March/April 2000, Corey Creek employed William Eufer, (hereinafter "Eufer"), as a maintenance supervisor. (N.T. 16, 105, 117; R.E. 13).
19. According to Corey Creek's general policy, when tenants had a maintenance problem in their apartment, they completed a work order and submitted it by depositing it into a drop box located near Corey Creek's main office. (N.T. 24, 198).
20. In or about January 2000, Gates' stepson Loquin Tyson, traveled from Kentucky to Mansfield, Pennsylvania. (N.T. 244).
21. While Gates was at work, Loquin Tyson was in Gates' apartment resting from the trip and Wood came to the door. (N.T. 244, 247, 314).
22. The interaction between Wood and Loquin Tyson caused Loquin Tyson to call Gates to advise her that Wood had given him a problem. (N.T. 247).
23. Upon returning to Corey Creek from work, Gates went to Wood's apartment to confront him. (N.T. 247).
24. Wood asked Gates who Loquin Tyson was and why was he in Gates' apartment. (N.T. 247).
25. Wood told Gates she had not notified him about Loquin Tyson, to which Gates responded she was not aware she was obligated to. (N.T. 247).
26. Gates and Wood engaged in a bitter argument. (N.T. 248).
27. Gates testified that during their argument, Wood stated, "this is the reason why N____s shouldn't live in [a] complex like this." (N.T. 248).
28. Gates testified that this was the first time she either had a problem with Wood or had heard Wood use a racial slur. (N.T. 248).
29. In disbelief, Gates just wanted to cry. (N.T. 249).
30. Gates testified that she then, in effect, asked Wood what this was about since all she had wanted to do was ask a question, to which Wood responded "you need to get out of my face . . . get back downstairs . . ." (N.T. 249).
31. As the argument continued, Gates testified that Wood commented, "that's why monkeys deserve to be back in Africa." (N.T. 249).
32. Gates attempted to call Laessig to report Wood's racial insults, but Laessig would not answer her call. (N.T. 249, 261, 262; C.E. 4).

33. Gates testified that after the first problem she had with Wood, when she would see Wood “he would have a face . . . roll his eyes . . . and . . . have something to say under his breath.” (N.T. 263; 266).
34. Gates reported both to her mother Pearl Smith, and her friend Lisa Carman, that Wood had used racial slurs. (N.T. 148, 152, 186).
35. Gates’ reputation was that she was not a problem tenant. (N.T. 57, 105).
36. After Gates confronted Wood in January 2000, Wood continually posed a problem for Gates’ family and friends. (N.T. 266).
37. While loud music was a problem with white tenants, Wood yelled at Gates about noise from her apartment. (N.T. 42, 190, 267).
38. Approximately four times, Wood called the police reporting that Gates and her family were either too loud or fighting. (N.T. 190-191, 267,279, 280-281, 288, 486-487).
39. Gates was never charged and twice, police reports reflect that the alleged incidents were “unfounded”. (N.T. 285; C.E. 5, 6).
40. On one occasion, Loree Lisk, the wife of a past Corey Creek maintenance man, overheard Wood tell a police officer, “Stephanie Gates was nothing but a N_____” (N.T. 17).
41. Gates nephew, Robert Smith, testified that whenever the family tried to have a party, Wood would tell them to go inside. (N.T. 412).
42. Robert Smith further testified that on another occasion he was at Gates’ apartment for a baby shower, and he was outside smoking when Wood approached saying he was being too loud and that “us N_____s needed to go somewhere with all that noise.” (N.T. 422, 429).
43. Wood did not similarly treat white tenants. (N.T. 30).
44. Gates’ niece, Tiesha Smith, babysat Gates’ daughters almost daily. (N.T. 401, 406).
45. One day, Tiesha Smith took Gates’ daughter, Melissa, and two cousins, Jelissa and April, out to play a jump rope game. (N.T. 402).
46. Tiesha Smith, Melissa, Jelissa and April are all African American. (N.T. 404).
47. Tiesha Smith and the children began playing on the sidewalk but Wood came out and told them they were not allowed to play on the sidewalk. (N.T. 403).
48. When the game was moved to the street, Wood came out again saying they could not play in the street. (N.T. 403).
49. As the children moved to a grassy area, Wood stated, “you are not allowed to play on the grass. You need to get inside.” (N.T. 403).
50. After that incident, Tiesha Smith no longer took the children outside. (N.T. 404).
51. Wood allowed whites to play in the same areas denied to Gates’ daughter, niece, and cousins. (N.T. 405, 415).
52. When Gates approached Wood about this issue, he denied telling the children to go inside. (N.T. 265).
53. In her apartment, Gates experienced water leaks, heating problems, a defective pilot light in her oven, broken closet doors, and the need to cover an opening where an air conditioner had been removed. (N.T. 270, 273).
54. Gates submitted work orders for her main problems, the water leaks and heat problems. (N.T. 27, 113, 121, 270, 273).
55. At times Gates was without heat and had to use a space heater and the oven for warmth. (N.T. 144, 170).

56. When Gates used the oven for heat, the pilot light kept going out causing an intolerable odor in the apartment. (N.T. 144, 188).
57. One of Gates' friends, Lisa Carman, was forced to leave Gates' apartment because she became nauseous and her eyes burned and watered from the oven's odor. (N.T. 144, 170).
58. During the winter of 1999-2000, Gates had a cold three to four times. (N.T. 171, 172, 189).
59. Wood instructed Corey Creek maintenance men not to go into Gates' apartment to do any repairs. (N.T. 18, 26, 27-28, 37, 113).
60. Maintenance men were permitted to do repairs for white tenants. (N.T. 112, 114).
61. Contrary to Wood's instructions, after hours, Charles Lisk "snuck" into Gates' apartment to help Gates and facilitate repairs. (N.T. 26, 29, 40-41, 274).
62. While Gates was working, Wood entered Gates' apartment. (N.T. 209).
63. Eufer testified that on one occasion while in Gates' apartment, Wood commented, "look at the way N _ _ _ _ s live." (N.T. 213).
64. On another occasion, upon returning from work, Gates found Wood in her apartment. (N.T. 268).
65. Gates testified that Wood told her, "monkeys don't deserve to live in a complex like this, because we don't know how to live." (N.T. 267).
66. During the course of her tenancy, several times Gates mailed her rent check late. (N.T. 275, 366, 386-387, 436).
67. Rent was due on the first of the month and Gates' rent checks for April, May, June, and August 2000 were received late. (N.T. 386-387; C.E. 3; R.E. 5, 6, 7, 9).
68. Gates' July 2000 check was returned as non-sufficient funds. (N.T. 366; R.E. 10).
69. Gates ultimately paid the rents for April through August 2000 along with \$26.00 late fees on each occasion. (N.T. 275).
70. By letter dated August 10, 2000, Corey Creek notified Gates that Corey Creek did not intend to renew her lease and that Gates should vacate her apartment no later than October 31, 2000. (N.T. 374; R.E. 11).
71. Gates vacated apartment A-110 in mid-September 2000. (N.T. 277, 388).
72. Gates testified that she moved because of Wood's constant harassment. (N.T. 277, 298, 300, 377, 412).
73. Gates paid approximately \$200.00 to rent a truck and paid individuals who assisted her \$50.00 each to help her move. (N.T. 292, 293).
74. Corey Creek completed an inspection report on apartment A-110 after Gates moved. (N.T. 46; R.E. 1-1).
75. The condition of apartment A-110 was exaggerated on the inspection report. (N.T. 49).
76. After leaving Corey Creek, Gates visited a doctor who prescribed medication to calm her. (N.T. 311).

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the parties and subject matter of this case.
2. The parties and the Commission have fully complied with the procedural prerequisites to a public hearing in this case.
3. Gates is an individual within the meaning of the Pennsylvania Human Relations, Relations Act (P.H.R.A.).
4. Corey Creek is a housing accommodation within the meaning of the P.H.R.A.
5. Gates presented direct evidence of Wood's race-based discriminatory intent to:
 - a. harass her;
 - b. deny Gates necessary repairs;
 - c. deny Gates' child and guests the full privileges of tenancy at Corey Creek; and
 - d. make disparate unjust allegations about Gates to the police.
6. Neither Wood nor Corey Creek met their burden to show that any such action would have been taken against Gates absent Wood's discriminatory motive.
7. Gates vacated apartment A-110 because of Wood's discrimination.
8. As a principal, Corey Creek is liable for the actions of Wood, it's agent.

OPINION

This case arises on a complaint filed by Stephanie Gates (hereinafter "Gates") against the New Corey Creek Apartments, Inc., (hereinafter "Corey Creek"), and Charles Wood, at all relevant times, Manager of Corey Creek, (hereinafter "Wood"), at Pennsylvania Human Relations Commission, (hereinafter "PHRC"), Docket Number H-8304.

In her complaint Gates alleges that beginning in December 1999 she was harassed because of her race, African American, and that on May 3, 2000 and again on August 10, 2000 she was served with notices of the termination of her lease, also because of her race. Gates' complaint alleged Corey Creek and Wood violated Sections 5(h)(1) and 5(h)(3) of the Pennsylvania Human Relations Act (hereinafter "PHRA").

The PHRC investigated Gates' allegations and, at the conclusion of the investigation, informed Corey Creek and Wood that probable cause existed to credit Gates' allegations. Thereafter, the PHRC attempted to eliminate the alleged unlawful practices through conference, conciliation and persuasion, but such efforts proved unsuccessful. Subsequently the PHRC notified the parties that it had approved a public hearing.

The public hearing was held on June 3 and 4, 2003, in Wellsboro, Pennsylvania, before Permanent Hearing Examiner Carl H. Summerson. The Commission's interest in the complaint was overseen by the PHRC Assistant Chief Counsel William R. Fewell. Gates was represented by Jarett R. Smith, Esquire. Corey Creek and Wood were represented by Claude I. Schoenberg, Esquire and Stephanie J. Mensing, Esquire.

The parties were afforded an opportunity to submit post-hearing briefs. The post-hearing brief on behalf of the Complainant was received on August 8, 2003. Corey Creek and Wood submitted a post-hearing brief that was received on August 1, 2003.

Section 5(h)(1) of the PHRA makes it an unlawful discriminatory practice for any person to:
Refuse to . . . lease . . . or otherwise deny or withhold any housing . . . from any person because of the race . . . of any person . . .

Section 5 (h)(3) makes it an unlawful discriminatory practice for any person to:
Discriminate against any person in the terms or conditions of . . . leasing any housing accommodation . . . or in furnishing . . . , services or privileges in connection with the . . . , occupancy or use of any housing accommodation . . . because of the race, . . . of any person . . .

Under the facts presented and the allegations of Gates' complaint, the section of the PHRA principally implicated is 5(h)(3). Section 5(h)(1) is implicated by Corey Creek's refusal to renew Gates' existing lease.

In the case of Allison v. PHRC, 716 A.2d 689 (Pa. Cmwlth. Ct. 1998), the Pa. Commonwealth Court adopted for use in housing cases the proof standard normally found in employment cases as set forth by the Pa. Supreme Court in Allegheny Housing Rehabilitation Corp. v. PHRC, 516 Pa. 124, 532 A.2d 315 (1987). In Allison, the court found that normally in a case where the alleged discrimination is a race-based refusal to rent, the PHRC's prosecution of the case has to establish that:

The Complainant is a member of a protected class; (2) the Respondents were aware of the Complainant's race; (3) the Complainant was qualified to rent the property in question; (4) the Complainant was denied the opportunity to rent the apartment; and (5) the apartment remained available for rent. Allison at 692.

Here, the court's phrasing of the *prima facie* requirement in Allison does not specifically fit the situation presented. In McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), U.S. Supreme Court observed that adaptations of the *prima facie* formula have to be made for particular applications. See Allegheny Housing Rehabilitation Corp. at 318. In this case, given the credible evidence presented, the required *prima facie* showing under the traditional McDonnell Douglas formula would be appropriately adjusted as follows:

Gates is a member of a protected class; (2) Corey Creek and Wood knew that Gates is an African American; (3) that Corey Creek and Wood engaged in conduct which adversely affected the terms, conditions, or privileges of Gates' rental of apartment A-110; and (4) that Corey Creek and Wood treated other tenants not in Gates' protected class more favorably.

See Missouri Comm'n ex.rel Pike v. Bay Finance Co., (No. Comm'n on Human Rights, 1982) No. H-8/80-71 Decided 5-17-82.

However, this case presents a situation where there exists the possibility of a different evidentiary path to take by which to resolve the ultimate issue of whether the Respondents' had a discriminatory intent. The facts present in this case may well rise to the level of being classified as direct evidence.

If there is direct evidence of discriminatory intent, the McDonnell Douglas *prima facie* route becomes unnecessary. See Trans World Airlines, Inc. v. Thurston 469 U.S. 111, at 121 (1985); Cline v. Roadway Express 29 FEP 1365 (4th Cir. 1982), and Aloqaili, et.al v. National Housing Corp., f/k/a Shave Realty Co. et.al, 743 F.Supp. 1264 (N.D. Oh. 1990). The direct evidence model involves a Complainant presenting persuasive evidence of a Respondent's discriminatory motive to support a claim of intentional discrimination. Such a model progresses without the aid of rebuttable presumptions because the Complainant's *prima facie* case consists of evidence of overt discrimination.

If a Complainant makes the requisite direct evidence showing, the burden of persuasion then shifts to the Respondent to prove by a preponderance of the evidence that even absent a discriminatory motive, the Respondent would have legitimately taken the same actions even absent the impermissible factor. See Lee v. Russell County Board of Ed., 684 F.2d 769 (11th Cir. 1982).

Before an analysis of whether Gates has made out a direct evidence case, we note that much of the evidence presented is in conflict. Accordingly, before evaluating whether there was a direct evidence *prima facie* showing, it is necessary to examine and evaluate the credibility of the witnesses in this case.

Judgment of credibility is a responsibility entrusted to the tier of fact. Carr v. Com., State Board of Pharmacy, 49 Pa. Cmwlth. 330, 409 A.2d 941 (1980); Boughter v. Com., Dep. of Public Welfare, 55 Pa. Cmwlth. 521, 423 A.2d 806 (1980); PHRC v. Hempfield Township, 23 Pa. Cmwlth. 351, 352 A.2d 218 (1976). In this case, much of the testimony presented was conflicting. In assessing credibility, consideration was given to each witness' motive and state of mind, strength of memory and demeanor while on the witness stand. Consideration was also given to whether a witness' testimony was contradicted, and the bias, prejudice, and interest, if any, of each witness. Recognition was also given to the premise that where resolution of a matter rests with a weighting and balancing of conflicting evidence, absolute certainty is rarely achieved.

Testimonial evidence on behalf of Gates was presented by eleven witnesses: Gates herself; Gates' mother, Pearl Smith; Gates' daughter Melissa Tyson; Gates' niece, Tiesha Smith; Gates' nephew, Robert Smith; Gates' friend, Lisa Carmon; three maintenance men, Charles Lisk, Curt Smith, and William Eufar; Loree Lisk, the wife of Charles Lisk; and June Smith, the wife of Curt Smith. Corey Creek and Wood's case relied on the testimony of Wood himself, and Ronald Laessig, president of Corey Creek.

Significant conflict exists in several key areas. Clearly, the record resonates with the emphatic clash of testimonies on the issue of the extent, if any, Wood uttered racial epithets. The

disharmony on this point is astonishing. Without exception, each of Gates' witnesses offered testimony on this issue.

Eufer, the Corey Creek maintenance manager Wood terminated after approximately five weeks, offered extreme testimony regarding Wood's use of racial slurs. Generally Eufer suggests that Wood used the "N" word whenever he conversed with African American tenants with the exception of Pearl Smith. (N.T. 116). As to Gates, Eufer testified that he saw Wood confront Gates 25-30 times and utter the "N" word each time. (N.T. 116). Eufer offered that on one occasion Wood told Gates in reference to the children playing outside, "oh no, get them N _____s off the parking lot, get them back in the house. They're not allowed to play outside." (N.T. 108). Eufer testified that Wood commented directly to the children, "oh, you little N _____ bastards, get back in the house." Eufer suggests that on another occasion Wood cursed at Gates as she drove away, saying "then stay out N _____." (N.T. 207). On yet another occasion, Eufer related his version of an exchange between Wood and Eufer when Wood entered Gates' apartment and Gates was there. Eufer testified that Gates told Wood to keep out or she would change the locks to which, Eufer relates, Wood replied, "then I'll have a key in three days or you'll move, N _____." (N.T. 210) Eufer testified that Wood often entered Gates' apartment when she was not home and made comments like, "look at the way N _____s live." (N.T. 213, 222). With regard to Wood's attitude towards African Americans, Eufer testified that Wood generally referred to African American tenants as N _____s, and would make comments to the maintenance men like, "there goes another one of them N _____ bastards. Should be in the ghetto, shouldn't be here." (N.T. 115, 139).

Eufer also offered that approximately once a week he telephoned Laessig about Wood's behavior and racial slurs, but that Laessig's response was to say Wood was not like that and to laugh at Eufer's allegations. (N.T. 109-110). Eufer indicated that he obtained Laessig's telephone numbers from his paycheck. (N.T. 127).

Charles Lisk, a Corey Creek maintenance man Wood fired and rehired numerous times, generally testified that Wood directed racial slurs at Gates with a frequency more than he cared to recall. (N.T. 28, 33, 52). Later in his testimony Charles Lisk stated he had heard the N _____ word nine million times. (N.T. 55). Charles Lisk related his version of Wood's reaction to a cookout Gates had as Wood "calling everybody N _____s, and black sons of bitches . . ." (N.T. 54). Charles Lisk also testified that numerous times Wood yelled at Gates across the Corey Creek parking lot such offensive names as "chimpanzee, gorilla, N _____." (N.T. 66, 67). Finally, Charles Lisk testified that Wood often used the N _____ word. (N.T. 28).

Charles Lisk's wife Loree Lisk, testified that approximately once a week she heard Wood say he disliked African Americans, and that they were no good. (N.T. 17). Loree Lisk stated that while she never heard Wood speak directly to Gates, (N.T. 21), in the summer of 2000, she overheard Wood tell a police officer, "Stephanie Gates was nothing but a N _____." (N.T. 17, 21).

Curt Smith, another Corey Creek maintenance man who had been fired by Wood, testified that Wood had uttered racial slurs a half dozen times the few months he worked at Corey Creek. (N.T. 99). More specifically, Curt Smith indicated that Wood called an Egyptian tenant a "sand n _____." (N.T. 93).

Curt Smith's wife, June Smith, testified that she too recalled Wood calling an Egyptian a "Sand n _____." (N.T. 73). June Smith further related that Wood had stated, "the Egyptians . . . should get on their camel and go back to Egypt where they came from. He didn't need to have sand n's in the building." (N.T. 75). June Smith also offered that Wood called African American tenants N _____s. (N.T. 73).

Gates' nephew, Robert Smith, testified that he visited Gates at Corey Creek approximately twice a week. Robert Smith related that on one visit he was attending a baby shower and he, another aunt, and a friend had gone outside to smoke. Robert Smith indicated that Wood approached the group and said "us N _____s needed to go somewhere with all that noise." (N.T. 419, 429).

Pearl Smith, Gates' mother, when asked if she ever heard Wood use a racial epithet, responded, "not really." (N.T. 185). However, Pearl Smith did testified that Gates had reported to her that Wood had used racial slurs. (N.T. 186). Pearl Smith indicated that Wood and Gates did have a "little confrontation" in the hallway and Wood had mumbled something she did not understand. (N.T. 200, 201). As for her, Pearl Smith submitted that sometimes she and Wood had "friendly little conversations." (N.T. 197-198).

Tiesha Smith, Gates' niece who babysat Gates' daughter at Corey Creek testified that while Wood told her the children were not permitted to play jump rope outside, Wood used no racial terms. (N.T. 404).

Similarly Melissa Tyson, Gates daughter, who was thirteen at the time of the Public Hearing, testified that she never personally heard Wood call her family names, but she had been told he had. (N.T. 410). Melissa stated that she felt bad and sad when Gates told her not to talk with Wood because he is a racist. (N.T 412).

A close friend of Gates, Lisa Carman, also testified. Lisa Carman visited Gates in the evenings approximately 3 or 4 times each week. Carman related her impression that Gates was upset over what Gates described to her as Wood's racial slurs. (N.T. 148, 152). Carman indicated that she only observed Gates and Woods interact one time. (N.T. 154).

This brings us to Gates' testimony. On the issue of Wood using racial slurs, under direct examination, Gates testified that initially she had no problem with Wood. (N.T. 244). Gates indicated the first problem she had came in January or February of 2000, when her step-son came to visit. Gates related that upon returning from work, she went to Wood's apartment to confront him because her step-son told her Wood had come to her door earlier and given him a problem. Gates and Wood argued and Gates testified that Wood yelled at her and stated, "this is the reason why N _____s shouldn't live in a complex like this." (N.T. 248), and "that's why monkeys deserve to be back in Africa." (N.T. 249). Gates indicated that after this encounter, she tried to call Laessig several times to inform him of Wood's conduct and the racial nature of his interaction. (N.T. 249, 261, 262). On direct examination, Gates related that after this incident, when Wood saw Gates, "he would roll his eyes . . . and have something to say under his breath." (N.T. 263, 266). Gates generally stated that Wood used the "N" word to her "several times." (N.T. 267).

Gates testified on direct examination that once when she drove into the complex, Wood approached her and for no reason started an argument with her. (N.T. 269-270). Gates indicated that she told Wood “I’m not going to stand here and argue with you. What is the problem with you and me?” (N.T. 270). Gates indicated Wood did not respond.

Later in her direct examination Gates indicated she moved out in September, 2000 because Wood’s racial slurs were constant. (N.T. 278). Gates indicated that every time Wood saw her he insulted her with a racial slur. Gates testified that her daughter, Melissa, couldn’t understand why Gates was being called a racist name all the time. (N.T. 279).

Gates further testified that Wood only called her N _____ and monkey when the two of them were alone in the hallway. (N.T. 289, 317). Also, Gates indicated that Wood called Gates’ white friends N _____ lovers. (N.T. 291).

Wood testified and stated he never called Gates a N _____. (N.T. 474). Wood indicated that if he saw Gates at one end he’d go out the other, and only once did he have a run-in with Gates. (N.T. 475). As far as using the word N _____ with other tenants, Wood denied he ever used the word. In fact, Wood testified he never used the word. (N.T. 481, 482, 493).

Obviously, drastic deviations exist and testimony was offered that lacks credibility. Determinations of credibility are imperative in this case before weight can be assigned to a given testimony. As a general principle, according to all the facts and circumstances in this case which bear on the issue of credibility, all of a witness’ testimony may be believed, or all rejected, or a portion may be believed and a portion rejected. Here, some witnesses testimony will be found wholly credible, while the testimony of most witnesses only partially credible.

Strong circumstances and tangible facts point to the conclusion that several witnesses willfully fabricated portions of their testimony. Additionally, a witness’ interest and/or bias in this case must be considered on the question of credibility.

Those witnesses who are found to be wholly credible in this case are Loree Lisk, June Smith, Pearl Smith, Tiesha Smith, Melissa Tyson, Robert Smith and Lisa Carman. On the question of whether Wood used racial slurs, the remaining witnesses’ each lack some degree of credibility.

Gates, a party, testified that Wood only used racial slurs when she and Wood were alone. This dramatically undermines the testimony of both Charles Lisk and Eufer. Charles Lisk and Eufer both displayed hostility towards Wood while testifying at the public hearing. Further, at critical moments both Charles Lisk and Eufer significantly, contradicted themselves during their testimonies: Eufer even more than Charles Lisk. On direct examination Eufer submitted that 25-30 times he saw Wood confront Gates and use a racial slur. (N.T. 116). When later recalled, Eufer offered that what he meant when he said “confrontation” was when Wood went into Gates’ apartment 25 times. (N.T. 211).

Eufer's testimony that "confrontation" was Wood going into Gates' apartment is manifestly and inherently incredible and is rejected as a willful fabrication. Not only did Gates' testimony seriously conflict with Eufer's version, his self-contradiction was obvious.

Eufer's lack of credibility is further revealed when we compare his version of the words Wood used to tell African American children they may not play outside, with the versions of one of the children to whom Wood spoke and her babysitter. Neither Gates' daughter, Melissa nor the babysitter, Tiesha Smith, suggested Wood made a racial slur to them. On the contrary, both Melissa and Tiesha both confirmed Wood had not. For his own reasons, Eufer again offered a willful fabrication.

Eufer's testimony about calling Laessig is undermined by the introduction of R.E. 13. Eufer testified that he telephoned Laessig by using the telephone number from his pay checks. A review of R.E. 13 reveals that Laessig's telephone number was not on the paychecks given to Eufer. Like so much of his testimony, Eufer fabricated the story that he called Laessig about Wood.

As far as Charles Lisk, he too, at a minimum, exaggerated his version of Wood's racial slurs. This can be seen when Charles Lisk testified that he specifically recalled Wood confronting Gates two times. (N.T. 53). Almost immediately, Charles Lisk offered that Wood confronted Gates four or five times in one day. (N.T. 53).

As with Eufer's account, Charles Lisk's account of Wood publicly using racial slurs directly at Gates stands in direct contrast to Gates' version of Wood privately speaking to her with the use of racial slurs. Additionally, Charles Lisk stands alone with the version that Wood was attending one of Gates' cookouts when Wood called everyone N____s and black sons of bitches. (N.T. 54). Had this occurred, others would clearly have confirmed such a heinous event.

Turning to Curt Smith's testimony, credibility refers not just to a witness' integrity and to whether the witness is worthy of belief, but an important component of credibility is a witness' facility for knowing facts and remembering them. With Curt Smith, he testified that he suffers from Alzheimer, dementia. Because of this, Curt Smith's testimony will not be considered.

This brings us to Gates herself. The Respondents' post-hearing brief, observes that although Gates' public hearing testimony suggests that Wood used racial slurs every time he saw her, documentary evidence tends to contradict Gates' oral assertions. Indeed there are four documents signed by Gates that, when reviewed, raise serious questions about Gates' version of her interactions with Wood.

Chronologically, the first of the four documents is a PHRC housing questionnaire dated May 24, 2000. In this document, Gates completed questions regarding the incident about which she was complaining. (R.E. 3). The questionnaire states that Gates' complaint is against Wood. Question 2 in the Questionnaire states: "Please explain what happened to you and why you feel you were treated differently. In other words, what happened to persons of a different class that makes you feel they received more favorable treatment than you. (Include dates of occurrences.)"

In response, Gates stated:

My neighbors play exceeding loud music at all times that myself and other neighbors can hear but apartment manager does not say anything to them, he usually blame the noise on me, and has someone always at my door saying my T.V. music is to loud. The most serious incident began on April 29, 2000, when myself and some of my family was watching boxing on T.V. when suddenly it was a loud banging on my door, when I went to the door there was a police officer stating he received a report of a fight in my apartment, the officer investigated my apartment and found it to be untrue.

We had a discussion with the officer that when anytime my family is around the manager send someone to my door stating that I am making to much noise. We did inform the officer that my mother was having a family dinner the next day that the officer would be called back the next day. On April 30, 2000, my mother did have her family dinner and once again the police officer was called in again stating that there was fighting going on in my apartment. The officer again investigated my home and again found it untrue. The officer went to speak with the building manager and while talking with him the officer stated that he used numerous racial slurs against me and my family. He also informed the officer that my daughter, nieces and nephews were not allowed to play outside in the yard. But yet he allows the college students play catch in the grass with a football and baseball and never said nothing to them. When speaking to the officer he told me that he could not make a decision but he believe that I was being treated unfairly and if I would take further action he would testify to everything he had witness and heard. After the incident I received a letter of termination of my lease stating violations and rules and regulation.

Gates' PHRC Questionnaire does mention racial slurs, but not in connection with Wood's direct interaction with Gates. Instead, Gates related that a police officer told her Wood made racial slurs about Gates and her family while speaking with the police officer. Had Wood continually been calling Gates racial names to her face, or otherwise, surely, Gates would have noted it in her May 24, 2000 PHRC questionnaire.

In chronologic order, the next document which afforded Gates an opportunity to declare in writing that Wood had been continually calling her racial names was a September 22, 2000 letter from Gates to Laessig. (R.E. 4). This letter states:

Dear Mr. Laessig:

I am writing you this letter in reference to me trying to get in touch with you about my rent for September, also, about vacating the premises in October. First, I would like to apologize for this month's rent being late, I have try numerous times to get you on the phone and I just haven't gotten a response back. I called to see if you could help make an agreement because I had two death's in my family this month and I had to go out of town for the funeral. Being that your company has broken the contract wanting me to vacate I had to go and find another place to live which I did and there is no way that I can pay both places. I would like to know if you can keep my deposit to pay September's rent and

I will be vacating the premises in October, if possible. Can you pro-rate the rent for the time I am there for the few days there. If you can help me I will very much appreciate it.

Thank You,
Stephanie Gates

In her testimony, Gates asserted that she left 8-10 telephone messages for Laessig to tell him that Wood was giving her a problem with racial overtones. (N.T. 262). However, the only time Gates wrote to Laessig, the entire correspondence was about an apology for late rent and a request to work out a deal about September and October 2000's rents. The letter of September 22, 2000, makes no reference to Wood having directed racial slurs to Gates.

The other two documents are two November 24, 2000 complaints: One, Gates U.S. Department of Housing and Urban Development ("HUD") complaint, and the other Gates' PHRC complaint. Gates' HUD complaint against Wood generally asserted Gates' belief that she was being discriminated against because of her race, black; her sex, female; and familial status, presence of children under 18 in the family. When Gates summarized what happened she stated:

Was harassed on a daily basis, treated differently than white tenants, was called (N _ _ _ _ _) to a police officer when he made a false report of a fight in my apartment. Was verbally abusive to my children. Refused to do repairs in 8/00.

Once again, the only racial slur directly referenced was an indirect slur spoken by Wood about Gates to a police officer. Gates PHRC complaint states in pertinent part:

3. The complainant alleges that on or about December of 1999 to the present the Respondent has harassed her and served her with notices of termination of lease on May 3, 2000 and August 10, 2000 because of her race, Black.

A. I, the Complainant, further allege:

1 I am a black female.

2. I entered into a lease agreement with the Respondents on or about November 1, 1999.

3. Since becoming a tenant I have experienced harassment from the manager Charles Wood, White male in the following manner:

a. He constantly accuses me of having loud music coming from my apartment.

b. He has sent the police to my apartment, alleging that fighting was going on in my apartment.

c. He has failed to make maintenance repairs to my apartment in a timely manner.

4. On or about May 3, 2000 I was given written notice that my lease was terminated upon receipt of the letter for alleged violation of the lease agreement.

5. On August 10, 2000 I was given a sixty (60) day notice of intention not to renew my lease.

6. I believe that the Respondents have taken the foregoing actions against me because of my race, Black because White tenants have not experienced same or similar harassment from the Respondent.

Gates contends that her PHRC complaint does not reference Wood's constant direct racial slurs to her because the PHRC staff person who facilitated the drafting of her complaint just did not put them in her complaint.

Gates' testimony on why these four documents fail to state that Wood used direct racial slurs can best be described as evasive. (N.T. 331-334). What it boils down to is that Gates severely exaggerated the nature of her personal interactions with Wood. Rather than Wood using a racial slur directly to Gates when the two of them were alone in a hallway three to four times a week, the record reveals that Wood likely used disgraceful racial slurs directly to Gates in January when she confronted him about her step-son's visit, and uttered a grossly offensive racial slur directly to her nephew, Richard Smith and others as they stood near Gates apartment during a baby shower. Additionally, Gates heard from a police officer that Wood had used outrageous racial slurs when referring to her and her family.

Credible evidence shows that Gates did tell her Mother and her friend, Lisa Carman that Wood used racial slurs, however, at the public hearing, Gates exaggerated the extent of Wood's interactions with her. After evaluating the evidence presented on the question of whether Wood made racial slurs, we find sufficient instances of Wood's grossly offensive utterance of racial slurs as to amount to direct evidence of discriminatory intent to harass Gates.

This brings us to the next main issue in this case, whether there is direct evidence that repairs to apartment A-110 were withheld because of Gate's race. On this point, some credibility is given to consistent testimony offered by both Charles Lisk and Eufer. Both maintenance men testified that Wood instructed them not to make repairs in Gates' apartment. (N.T. 27, 28, 29, 111, 112, 113, 222). Eufer offered that Wood instructed him to destroy work orders Gates submitted. (N.T. 222). While Gates had leaks in her roof, and sinks that leaked, Eufer was told not to do the repairs Gates was requesting.

As for Charles Lisk, he testified that despite Wood threatening his job, he "snuck" into Gates' apartment after work hours to do some of the repairs needed. (N.T. 26, 27, 29). Charles Lisk indicated that approximately once or twice a week he worked after hours on Gates' water leaks and heating problems. (N.T. 36).

Loree Lisk testified credibly that she heard Wood yell at her husband "do not go into Stephanie's apartment to do any kind of repairs for no reason" and that "he didn't want the other maintenance man at that time, Brad Starks, to go in and do any kind of repairs." (N.T. 18). Loree Lisk further indicated she heard this type of instruction from Wood "several times". (N.T. 19).

Confirmation that repairs were not made to Gates' apartment also came from the credible testimony of Pearl Smith and Lisa Carman. Pearl Smith confirmed that Gates had problems with water leaks and heating. (N.T. 186-187). Because of the heat problems, Pearl Smith indicates that Gates had colds in the winter. (N.T. 189).

Lisa Carman offered similar credible testimony. Carman testified that Gates had to use a defective oven to attempt to keep warm. (N.T. 144). Carman further confirms that Gates told her that she had reported the problem several times but no one came to fix her oven. (N.T. 145, 147). Additionally, Carman related that Gates came down with winter colds approximately three or four times. (N.T. 171-172).

Wood generally denied that he ever prevented a maintenance person from performing maintenance in a tenant's apartment. However, Wood's credibility became suspect during his public hearing testimony. While Wood's testimony was quite concise, one area stands out as less than credible. Wood testified on cross examination that approximately every three months he inspected Corey Creek apartments. (N.T. 485). During his direct testimony Wood testified that after Gates moved in, he never entered her apartment. (N.T. 475).

By saying he never entered Gates' apartment, Wood willfully fabricated his testimony. Gates was a tenant at Corey Creek for approximately 10 months. If Wood inspected each apartment every three months, as he testified, he would not have avoided entering Gates' apartment. This discrepancy is significant given the limited testimony he offered and the credible testimony of others on this and other subjects. Accordingly, we find that direct evidence exists that Wood failed to make repairs to Gates' apartment because of her race.

A very significant feature of Gates' case was not even addressed by the Respondents post-hearing brief. Tiesha Smith and Melissa Tyson both credibly testified that Wood sent them inside and did not allow them to play outside while white residents were allowed to play in areas denied to them. Only Wood's testimony stands as a denial that this occurred. (N.T. 491). As previously indicated Wood's testimony lacks the substantial credibility of both Tiesha Smith and Melissa Tyson. Together, the testimony of Tiesha Smith and Melissa Tyson amount to direct evidence of disparate treatment in the denial of privileges in connection with rental of an apartment at Corey Creek.

Wood does admit that he called the police to Gates' apartment, (N.T. 486), and fails to specifically deny that white tenants were the source of loud music on other occasions. The record testimony that Wood failed to call the police on white tenants stands un-contradicted. Further, several of the police reports generated by responses to Wood's calls to the police about Gates indicate that the reports were "unfounded". (C.E. 5-6). Clearly, this too constitutes direct evidence that Wood's actions were principally motivated by a deep racial animosity he harbored.

Next we turn to the issue of Gates vacating apartment A-110 at Corey Creek. The Respondents' post-hearing brief focuses on Corey Creek's decision not to renew Gates' lease. The Respondents argue that because Gates was late paying her rent on five occasions, a business decision was made not to renew Gates lease.

While it is true that Gates' rent was not timely paid from April 2000 to August 2000, and on August 10, 2000, Corey Creek sent Gates a 60 day notice of Corey Creek's intention not to renew Gates lease, (R.E. 11), Gates argues that she vacated apartment A-110 in mid-September 2000 because of Wood's discriminatory actions. It is apparent that Corey Creek's August 10,

2000 letter partially gave rise to Gates' decision to leave Corey Creek. However, it is equally apparent that the main reason Gates vacated Corey Creek was the provocation of Wood's outrageous race-based discriminatory actions.

Gates testified that she mainly vacated apartment A-110 because of the stress of Wood's constant harassment. (N.T. 277; 298, 300, 377). Here, Wood's race-based adverse actions substantially interfered with Gates' right to enjoy the same benefits and privileges associated with living at Corey Creek as her white neighbors. Gates' testimony in this regard is corroborated by several of her witnesses. Gates' daughter testified that Gates was sick of Corey Creek because Wood was mean and bad to children. (N.T. 413). Robert Smith testified that he too was of the opinion that Gates moved because of all the trouble Gates had with Wood. (N.T. 428). Finally Lisa Carman agreed that Gates moved because she could not stand the lack of heat and because of Wood's treatment. (N.T. 153).

Under the circumstances present in this case, Gates was fully justified in vacating her apartment at Corey Creek before the end of the lease term. Wood's pattern and practice of racial discrimination provided Gates with the requisite justification.

The Respondents attempted to attack the credibility of the direct evidence presented in this case rather than attempt to offer that any of Wood's actions would have been taken even absent his race-based motivation.

Accordingly, Gates has sufficiently established a violation of Section 5(h)(3) of the PHRA by proving by direct evidence that Wood harassed her because of her race, denied her necessary repairs because of her race, denied Gates' child and guests the full privileges of being a tenant at Corey Creek, unjustly and in a race-based disparate manner, called the police with unfounded allegations, and finally, caused Gates to move to get away from Wood's outrageous race-based actions.

Having found that Wood's actions violated the PHRA, a fundamental legal principal found in agency law now plays an important role in holding not only Wood responsible for his actions, but also in holding Corey Creek accountable for Wood's acts. The general rule is that a principal is legally responsible for the acts, conduct, and statements of its agent done within the scope of the agent's apparent authority. In summary, when an agent, such as Wood, discriminates, the property owner is liable along with the agent. See Cabrera v. Jackbovitz, 24 F3d 372 (2nd Cir.) cert denied 115 S. Ct. 205 (1994); U.S. v. Balistrieri, 981 F.2d 916 (7th Cir. 1992), cert denied 510 U.S. 812 (1993); and Walker v. Crigler, 976 F.2d 900 (4th Cir. 1992).

Accordingly, we turn to the issue of appropriate remedies.

Section 9(f)(1) of the PHRA provides that when a respondent is found to have engaged in an unlawful discriminatory practice, the Commission may issue an order which requires a respondent to cease and desist from unlawful discrimination. Such an order may also order "such affirmative action" and "actual damages, including damages caused by humiliation and embarrassment, as, in the judgment of the Commission, will effectuate the purpose of the [PHRA]. . . , Section 9(f)(2) authorizes the assessment of a civil penalty "in an amount not

exceeding ten thousand dollars. . .” Additionally, Section 9(f.1) authorizes an award of attorney fees and costs to a prevailing Complainant.

At the conclusion of the public hearing, the Complainant’s post-hearing brief prayed for humiliation and embarrassment damages of \$50,000.00; out of-pocket expenses in the amount of \$1,300.00, attorney fees in the amount of \$5,500.00, costs of \$1,013.00, and a civil penalty in the amount of \$10,000.00.

Humiliation and embarrassment can be inferred from the circumstances as well as established by testimony. Seaton v. Sky Realty Co., Inc., et. al., 491 F.2d 634, 636 (7th Cir. 1974). See also HUD v. Blackwell, 2 FHFL ¶25,001 (HUD ALJ Dec. 21, 1989), aff’d. 908 F.2d 844 (11th Cir. 1990). The key factor in determining the size of an award for humiliation and embarrassment is a victim’s reaction to discriminatory conduct. HUD v. Banai, 2A FHFL ¶25,095 (HUD ALJ Feb 3, 1995).

Although the record is somewhat sparse regarding the precise degree of Gates’ subjective reaction to Wood’s acts of discrimination, it is clear that Gates was the victim of a wrongful deprivation of valuable rights from which damages are presumed. Here, Gates not only lost her interest in staying in the apartment of her choice on the same terms as white tenants, she also lost her protection from the stigmatic injury of being made to feel inferior. With stigmatic injuries, there should be a strong presumption of damages because any reasonable person would naturally suffer intangible damages in such circumstances.

While no real attempt was made to paint a detailed, fully developed picture of the degree of Gates humiliation, Gates did generally describe her reactions which began in January 2000 when Wood first used grossly offensive language to Gates. Gates testified that she just wanted to cry. (N.T. 249). Gates made a telephone call to Laessig on January 4, 2000, however, Laessig did not answer her call. (N.T. 249; C.E. 4). From that moment in January, each time Gates ran into Wood, “he would have a face. . . he would roll his eyes at (Gates) and he would have something to say under his breath.” (N.T. 263). In the winter Gates, her family and visitors to Gates’ apartment had to endure a cold apartment because Wood refused to permit repairs to be made in Gates apartment. Wood called the police to Gates apartment numerous time for unfounded reasons. Some of those visits by police occurred when Gates had family and friends visiting. Gates’ daughter and her friends could not even play outside, and Wood confronted her relatives with racial epithets.

As a black individual and mother, Gates testified that what Wood “took everything from her.” (N.T. 278-279). Gates felt the stress Wood caused took a lot from her as an African American individual. (N.T. 310, 377). Understandably, Gates felt she had been treated as less than human. (N.T. 310).

After leaving Corey Creek, Gates indicated that she had to find herself. (N.T. 310). Additionally, Gates testified that she went to a doctor and was given medication to calm her down. (N.T. 311).

Gates’ testimony is enhanced by her contemporaneous communication of her distress to others, one of whom testified. Carman confirms that Gates was often brought to tears. Carman’s

corroboration of Gates' reaction tends to dispel the unavoidable self-serving aura which surrounds a case where only a victim testifies about their reaction.

It must be recognized that a damage award can never fully compensate a victim of discrimination and that it is inherently difficult to measure an amount which will ease one's hurt feelings and experience of humiliation. Our task is to make an appropriate transformation of Gates' general qualitative testimony into quantitative relief. Therefore, considering the record as a whole, it is reasonable and fair to award Gates \$25,000.00 for the humiliation Gates suffered. A compensatory award is not intended to be a windfall but, instead, to make Gates whole for the psychic injury she suffered.

Gates' claim of \$1,300.00 for out-of-pocket expenses includes approximately \$200.00 for the rental of a truck to help her move in September 2000; \$50.00 per person for helpers to assist her to move; the first month's rent at the new apartment; a security deposit at the new apartment; and utility connection charges. From this list, Gates may only recover the costs of a truck and helpers, and utility connection charges. Unless the cost of the new residence is greater than the rent Gates paid at Corey Creek, rent for an alternate apartment and the security deposit she paid are not recoverable. Accordingly, a reasonable estimate of recoverable out-of-pocket expenses is \$500.00.

Gates requested attorney fees and costs are recoverable under Section 9(f.1.) of the PHRA. No argument was made that the requested fees and costs are not reasonable.

Finally, we turn to the issue of an appropriate civil penalty. First, although Wood's actions directly victimized Gates, a review of Laessig's testimony illustrates that it is appropriate to levy a civil penalty against both Wood and Corey Creek separately.

Under cross examination, Laessig testified that he did not recall if he ever became aware he had a racial problem with Wood. (N.T. 452). After learning of the allegations that Wood had used racial slurs, Laessig indicated he merely spoke to Wood and accepted Wood's declaration that the allegations were untrue. (N.T. 455). Callously, Laessig admitted that it didn't matter to him what Wood's reputation was in the community. (N.T. 459). Laessig held fast to the idea that Wood ran a good apartment complex. (N.T. 462). As this opinion points out, Wood was far from a good manager. On the contrary, Wood allowed his deep rooted racial animosity to interfere with the law's fundamental requirement that tenants be treated equally without regard to race.

To vindicate the public interest, the PHRA authorizes the imposition of a civil penalty upon a respondent who has violated the PHRA. Determining an appropriate penalty requires consideration of five factors: (1) the nature and circumstances of the violation; (2) the degree of the respondent's culpability; (3) the goal of deterrence; (4) whether a respondent has previously been found to have committed unlawful housing discrimination; and (5) a respondent's financial resources. See, e.g., HUD v. Jerrard, 2 FHFL ¶25,005 (HUD ALJ Sept. 28, 2990); HUD v. Blackwell, 2 FHFL ¶25,001 (HUD ALJ Dec. 21, 1989).

After consideration of as many of these factors as the record allows, a civil penalty of \$5,000 imposed upon Corey Creek and an additional civil penalty of \$2,500.00 imposed upon Wood,

under the circumstances present here, will demonstrate the seriousness of the unlawful action. This civil penalty should send the message to owners of housing accommodations that violations of the PHRA are not only unlawful, but also expensive.

An appropriate order follows.

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

STEPHANIE GATES, Complainant

v.

**THE NEW COREY CREEK APARTMENTS, INC, and CHARLES WOOD, MANAGER,
Respondents**

DOCKET No. H-8304

RECOMMENDATION OF THE PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned matter, the Permanent Hearing Examiner finds that Gates has proven discrimination against the Respondents in violation of Section 5(h)(3) of the Pennsylvania Human Relations Act.

It is, therefore, the Permanent Hearing Examiner's recommendation that the attached Stipulations of Fact, Findings of Fact, Conclusions of Law, and Opinion be approved and adopted by the full Pennsylvania Human Relations Commission. If so approved and adopted, the Permanent Hearing Examiner recommends issuance of the attached Final Order.

Carl H. Summerson, Permanent Hearing Examiner

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

STEPHANIE GATES, Complainant

v.

**THE NEW COREY CREEK APARTMENTS, INC, and CHARLES WOOD, MANAGER,
Respondents**

DOCKET No. H-8304

FINAL ORDER

AND NOW, this 27th day of January, 2004, after a review of the entire record in this matter, the Pennsylvania Human Relations Commission, pursuant to Section 9 of the Pennsylvania Human Relations Act, hereby approves the foregoing Stipulations of Fact, Findings of Fact, Conclusions of Law, and Opinion of the Permanent Hearing Examiner. Further, the Commission adopts said Stipulation of Fact, Findings of Fact, Conclusions of Law, and Opinion as its own finding in this matter, and incorporates the same into the permanent record of this proceeding, to be served on the parties to the complaint and hereby

ORDERS

1. Corey Creek shall permanently cease and desist from engaging in any acts or practices which have the purpose of effect of discriminating against any person in the terms or conditions of leasing an apartment at Corey Creek, or in furnishing services or privileges in connection with the occupancy of an apartment at Corey Creek because of race. Prohibited acts include, but are not limited to:
 - a. allowing the harassment of a tenant because of race;
 - b. denying repairs to an apartment because of race;
 - c. disparately denying the full benefit of the privileges of tenancy at Corey Creek because of race; and
 - d. making false police reports based on race.
2. That, jointly and severally, Wood and Corey Creek shall pay Gates the lump sum of \$25,000.00 in compensatory damages for the humiliation and embarrassment Gates was made to suffer.
3. That jointly and severally, Wood and Corey Creek shall pay Gates the lump sum of \$500.00 in compensation for out-of-pocket expenses incurred by Gates as a result of being forced to move from Corey Creek.

4. That jointly and severally, Wood and Corey Creek shall pay Gates the lump sum of \$5,500.00, which amount represents Gates' attorney fees, and an additional lump sum of \$1,013.00, which amount represents Gates' costs associated with her presentation of this case.
5. That, within thirty days of the effective date of this Order, Corey Creek shall deliver to PHRC Housing Division Assistant Chief Counsel William R. Fewell a check payable to the Commonwealth of Pennsylvania in the amount of \$5,000.00, which amount represents an assessment of a civil penalty pursuant to Section 9(f)(2)(i) of the PHRA.
6. That, within thirty days of the effective date of this Order, Wood shall deliver to PHRC Housing Division Assistant Chief Counsel William R. Fewell a check payable to the Commonwealth of Pennsylvania in the amount of \$2,500.00, which amount represents an assessment of a civil penalty pursuant to Section 9(f)(2)(i) of the PHRA.
7. Consistent with Section 5(j) of the PHRA, Corey Creek shall prominently post an exhibit a "Fair Housing Practice" notice distributed by the PHRC Housing Division alongside any "for rent" signs posted in connection with any apartments they own. Corey Creek shall hereafter also include the fair housing "Equal Opportunity in Housing" symbol in any advertisement for any apartment owned by Corey Creek.
8. That, within thirty days of the effective date of this Order, Wood and Corey Creek shall report to the PHRC on the manner of their compliance with the terms of this Order by letter addressed to William R. Fewell, Assistant Chief Counsel, PHRC Housing Division, PO Box 3145, Harrisburg, PA 17101-2702.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: Stephen A. Glassman, Chairperson
Attest: Sylvia A. Waters, Secretary