

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 STACY STURDEVANT; AIMCO)
 PROPERTIES, L.P.; AIMCO-GP, INC.;)
 APARTMENT INVESTMENT AND)
 MANAGEMENT COMPANY d/b/a)
 AIMCO; NHPMN MANAGEMENT,)
 LLC; NHP MANAGEMENT COMPANY;)
 and CENTRAL PARK)
 TOWERS II, L.P.,)
)
 Defendants.)
 _____)

JURY TRIAL DEMANDED

Civil Action No. 2:07-cv-02233

FIRST AMENDED COMPLAINT

Plaintiff, the United States of America, alleges:

1. This action is brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.* (hereinafter “Fair Housing Act”).
2. This court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, as well as 42 U.S.C. § 3612(o) and 42 U.S.C. § 3614(a).
3. Venue is proper under 28 U.S.C. § 1391(b), 42 U.S.C. § 3612(o), and 42 U.S.C. § 3614(a) because the events giving rise to the United States’ claims occurred in the District of Kansas, and they concern or otherwise relate to real property located in the District of Kansas.
4. Defendant Stacy Sturdevant has participated in the management, operation, and/or rental

of dwelling units at the Central Park Towers Apartments, located at 15 North 10th Street, Kansas City, Kansas (the “Subject Property”). During part or all of the time period between January 2003 and July 2005, Defendant Sturdevant was an employee of Defendant Apartment Investment & Management Company d/b/a AIMCO (hereinafter “AIMCO”) and/or Defendant AIMCO Properties, L.P., and in the course of that employment, she engaged in the management, operation, and/or rental of dwelling units at the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant NHPMN Management, LLC had the right to exercise control over Defendant Stacy Sturdevant’s management, operation, and/or rental of dwelling units at the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant Stacy Sturdevant was an agent of Defendant Central Park Towers II, L.P., and in the course of that agency, she engaged in the management, operation, and/or rental of dwelling units at the Subject Property.

5. Defendant AIMCO Properties, L.P. is a Delaware limited partnership with its principal place of business in Denver, Colorado. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO-GP, Inc. was a general partner of AIMCO Properties, L.P. During part or all of the time period between January 2003 and July 2005, AIMCO Properties, L.P. owned substantially all of Defendant AIMCO’s assets and managed the daily operations of Defendant AIMCO’s business and assets, and substantially all of Defendant AIMCO’s assets were required to be owned by Defendant AIMCO Properties, L.P. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO Properties, L.P. was the parent of its subsidiary, Defendant

Central Park Towers II, L.P. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO Properties, L.P. was the parent of its subsidiary, Defendant NHPMN Management, LLC. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO Properties, L.P. owned or managed a real estate portfolio of 1,499 apartment properties located in 47 states, the District of Columbia and Puerto Rico. One of the apartment properties that Defendant AIMCO Properties, L.P. owned or managed during this time period was the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO Properties, L.P. was an employer of Defendant Stacy Sturdevant and the employees who supervised Defendant Sturdevant, and/or Defendant AIMCO Properties, L.P. exercised control or had the power to exercise control over Defendant Sturdevant and the employees who supervised Defendant Sturdevant. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO Properties, L.P. was an employer of Melissa Kothe, and/or exercised control or had the power to exercise control over Ms. Kothe and the persons who supervised Ms. Kothe.

6. Defendant AIMCO-GP, Inc. is a Delaware corporation with its registered agent's address at 2711 Centerville Road, Suite 400, Wilmington, DE 19808. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO-GP, Inc. was a general partner of Defendant AIMCO Properties, L.P.
7. Defendant AIMCO is a real estate investment trust traded on the New York Stock Exchange under the name AIV. Defendant AIMCO's business address is 4582 South Ulster Street Parkway, Denver, Colorado. During part or all of the time period between

January 2003 and July 2005, Defendant AIMCO was an employer of Defendant Sturdevant and the employees who supervised Defendant Sturdevant, and/or Defendant AIMCO exercised control or had the power to exercise control over Defendant Sturdevant and the employees who supervised Defendant Sturdevant. During part or all of the time period between January 2003 and January 2005, Defendant AIMCO was an employer of Melissa Kothe and the persons who supervised Ms. Kothe, and/or Defendant AIMCO exercised control or had the power to exercise control over Ms. Kothe and the employees who supervised Ms. Kothe. During part or all of the time period between January 2003 and July 2005, Defendant AIMCO managed and operated apartment properties throughout the nation, including the Subject Property.

8. Defendant Central Park Towers II Limited Partnership (formerly known as Central Park Towers II) is a Kansas limited partnership, with its registered office in Topeka, Kansas. During part or all of the time period between January 2003 and July 2005, Defendant Central Park Towers II, L.P. was an owner of the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant Central Park Towers II, L.P., was engaged in or had the right to engage in the management, operation, and/or rental of dwelling units at the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant NHPMN Management, LLC served as an agent for Defendant Central Park Towers II, L.P., in the property management of the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant Central Park Towers II, L.P. engaged in or had the right to engage in the exercise of control over its agent, Defendant NHPMN Management, LLC, in the property

management of the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant Central Park Towers II, L.P., engaged in or had the right to engage in the exercise of control over Defendant Stacy Sturdevant, in the property management of the Subject Property.

9. Defendant NHPMN Management, LLC is a Delaware limited liability company with its registered agent in Wilmington, DE. During part or all of the time period between January 2003 and July 2005, Defendant NHPMN Management, LLC served as a property management company for the Subject Property, and in that capacity, engaged in the operation and/or management of the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant NHPMN Management, LLC, as an agent of Defendant Central Park Towers II, L.P., submitted to the control of Defendant Central Park Towers II, L.P. in the management and/or operation of the Subject Property, or submitted to Defendant Central Park Towers II, L.P.'s right to control its management and/or operation of the Subject Property. During part or all of the time period between January 2003 and July 2005, Defendant NHPMN Management, LLC had the right to exercise control over Defendant Sturdevant's management of the Subject Property.
10. Defendant NHP Management Company is an entity registered in the District of Columbia. During part or all of the time period that Sturdevant was the property manager at the Subject Property, Defendant NHP Management Company was a subsidiary of Defendant AIMCO Properties, L.P. During part or all of the time period that Defendant Sturdevant was the property manager at the Subject Property, Defendant

NHP Management Company generated the paychecks for Defendant Sturdevant, Ms. Kothe, and/or the persons who supervised Defendant Sturdevant and Ms. Kothe. Upon information and belief, during part or all of the time period that Defendant Sturdevant was the property manager at the Subject Property, Defendant NHP Management may have exercised control or may have had the power to exercise control over Sturdevant, Ms. Kothe, and/or the persons who supervised Sturdevant and Ms. Kothe.

11. The Subject Property is a dwelling within the meaning of 42 U.S.C. § 3602(b).
12. Melissa Kothe worked at the Subject Property from about March 2004 until May 3, 2005, as a resident services coordinator. During that time period, Defendant AIMCO Properties, L.P. was an employer of Melissa Kothe. During that time period, Defendant AIMCO was an employer of Melissa Kothe.
13. On or about April 22, 2005, two investigators from the United States Department of Housing and Urban Development (“HUD”) interviewed Ms. Kothe in connection with a fair housing complaint lodged by a Central Park Towers resident against Defendant Stacy Sturdevant.
14. Ms. Kothe told the HUD investigators that she had witnessed Defendant Stacy Sturdevant using inappropriate and disrespectful language toward a tenant, and attempting to provoke the tenant into an altercation.
15. On or about April 22, 2005, and on or about April 25, 2005, Defendant Stacy Sturdevant asked Ms. Kothe what Ms. Kothe had told the HUD investigators. Ms. Kothe refused to give complete answers, and Defendant Stacy Sturdevant became angry with Ms. Kothe.
16. On or about April 27, 2005, Defendant Stacy Sturdevant overheard Ms. Kothe tell a co-

worker that Ms. Kothe had advised a Central Park Towers tenant to contact an attorney or HUD regarding an eviction notice that the tenant had received.

17. Upon overhearing Ms. Kothe state that she had advised a tenant to contact an attorney or HUD, Defendant Stacy Sturdevant became angry and ordered Ms. Kothe to never again give a tenant advice about contacting either an attorney or HUD.
18. On or about April 27, 2005, Defendant Stacy Sturdevant falsely accused Ms. Kothe of falsifying a document that Ms. Kothe had submitted previously on behalf of a tenant to the Kansas Department of Social and Rehabilitative Services. Defendant Stacy Sturdevant made this false allegation because Ms. Kothe had cooperated with HUD investigators and had advised a tenant to contact HUD or a lawyer.
19. As a result of Defendant Stacy Sturdevant's false accusation, Ms. Kothe was suspended, and later fired from her employment with Defendant AIMCO Properties L.P., Defendant AIMCO, Defendant NHPMN Management, LLC, and/or NHP Management Company.
20. On or about May 24, 2005, Ms. Kothe filed a timely complaint with HUD pursuant to Section 810(a) of the Fair Housing Act, 42 U.S.C. § 3610(a), alleging a violation of 42 U.S.C. § 3617. In her complaint, Ms. Kothe alleged that the Defendants coerced, intimidated, threatened, or interfered with her on account of her having exercised or enjoyed, or on account of her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 803, 804, 805, or 806 of the Fair Housing Act.
21. Pursuant to the requirements of 42 U.S.C. §§ 3610(a) & (b), the Secretary of HUD conducted and completed an investigation of the complaint filed by Ms. Kothe, attempted

conciliation without success, and prepared a final investigative report. Based on information gathered during the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause exists to believe that discriminatory housing practices had occurred.

22. Accordingly, on or about April 20, 2007, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants Stacy Sturdevant, AIMCO Properties, L.P., NHPMN Management, LLC, and Central Park Towers II, L.P., as well as Jimmy Arnold and Kendra Clements, with engaging in a discriminatory housing practice in violation of Section 818 of the Fair Housing Act.
23. On or about May 2, 2007, Ms. Kothe elected to have the Charge of Discrimination resolved in a civil action filed in federal district court, pursuant to 42 U.S.C. § 3612(a).
24. On or about May 2, 2007, HUD's Chief Administrative Law Judge issued a Notice of Election of Judicial Determination and terminated the administrative proceeding on the complaint filed by Ms. Kothe.
25. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

COUNT I

26. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-25, above.
27. The Defendants, through the conduct described above, have coerced, intimidated, threatened, or interfered with a person in the exercise or enjoyment of, or on account of her having exercised or enjoyed, or on account of her having aided or encouraged any

other person in the exercise or enjoyment of any right granted or protected by Section 803, 804, 805, or 806 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.

28. Ms. Kothe is an aggrieved person as defined in 42 U.S.C. § 3602(i).
29. Ms. Kothe has suffered damages, including economic loss and emotional distress, as a result of Defendants' conduct.
30. The discriminatory actions of the Defendants were intentional, willful, and taken in disregard for the rights of the victims of that discrimination.

COUNT II

31. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-30, above.
32. While acting as the manager of the Subject Property, Defendant Stacy Sturdevant openly displayed and distributed racially hostile materials, symbols, and items, such as hangman's nooses, on the premises of the Subject Property.
33. While acting as the manager at the Subject Property, Defendant Stacy Sturdevant openly and pervasively referred to African-Americans as "niggers," and she openly and pervasively made other racially derogatory and hostile remarks about African-American residents, to African-American residents, and to persons who associated with African-American residents of the Subject Property.
34. While acting as the manager of the Subject Property, Defendant Stacy Sturdevant treated white residents more favorably than African-American residents in the terms and conditions of their residency.
35. While acting as the manager of the Subject Property, Defendant Stacy Sturdevant engaged

in other discriminatory conduct on the basis of race.

36. Defendants AIMCO Properties, L.P., AIMCO-GP, Inc., AIMCO, NHPMN Management, LLC, NHP Management Company, and Central Park Towers II, L.P., knew or should have known about the conduct of Defendant Stacy Sturdevant described in paragraphs 31 – 35, above.
37. Defendants Stacy Sturdevant, AIMCO Properties, L.P., AIMCO-GP, Inc., AIMCO, NHPMN Management, LLC, NHP Management Company, and Central Park Towers II, L.P., through the actions described above, have discriminated in the terms, conditions, or privileges of the rental of a dwelling to renters because of race, in violation of 42 U.S.C. § 3604(b).
38. The conduct of Defendants Stacy Sturdevant, AIMCO Properties, L.P., AIMCO-GP, Inc., AIMCO, NHPMN Management, LLC, NHP Management Company, and Central Park Towers II, L.P., described above constitutes:
 - (a) A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619; or
 - (b) A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, which denial raises an issue of general public importance.
39. Persons who may have been the victims of Defendants' discriminatory housing practices are aggrieved persons as defined in 42 U.S.C. § 3602(i), and may have suffered injuries as a result of the conduct described above.
40. The discriminatory actions of the Defendants were intentional, willful, and taken in

disregard for the rights of the victims of this discrimination.

WHEREFORE, the United States prays that the court enter an ORDER that:

1. Declares that the Defendants' conduct, as alleged herein, violates the Fair Housing Act;
2. Enjoins the Defendants, their officers, employees, agents, successors and all other persons in active concert or participation with them, from further:
 - (a) Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of her having exercised or enjoyed, or on account of her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 803, 804, 805, or 806 of the Fair Housing Act;
 - (b) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Ms. Kothe to the position she would have been in but for the Defendants' discriminatory conduct; and
 - (c) Discriminating on the basis of race against any person in any aspect of the rental of dwellings, pursuant to 42 U.S.C. § 3614(d)(1)(A).
3. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3614(d)(1)(B), to all persons harmed by the Defendants' discriminatory practices, including Ms. Kothe; and
4. Assesses a civil penalty against each defendant in an amount authorized by 42 U.S.C. § 3614(d)(1)(C), to vindicate the public interest.

The United States further prays for such additional relief as the interests of justice may require.

Dated: September 18, 2008

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