**STATE OF CONNECTICUT**
**COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES**
**OFFICE OF PUBLIC HEARINGS**

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| Commission on Human Rights and Opportunities, ex rel. Judy Hartling, Complainant | : | CHRO No. 0550116<br>Fed. No. 01-05-0314-8 |
| v. | : | |
| Jeffrey Carfi, Alana McKeon, and Connecticut Management Consultants, Respondents | : | October 26, 2006 |

## MEMORANDUM OF DECISION

*Procedural Background*

On or about March 18, 2005, Judy Hartling (the complainant) filed with the Commission on Human Rights and Opportunities (the commission) an Affidavit of Illegal Discriminatory Practice (the complaint), alleging that the respondents retaliated against her, in violation of General Statutes § 46a-64c (a) (9) and Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 et seq. (the Fair Housing Act), because she previously filed a housing discrimination complaint with the commission.

On January 18, 2006, a commission investigator determined that there existed reasonable cause to believe that the respondents had committed discriminatory practices as described in the complaint. See General Statutes § 46a-83 (d).

On January 26, 2006, the complainant amended her complaint, alleging that the respondents' actions were also motivated by her sexual orientation, in violation of General Statutes § 46a-81e (a).

On March 8, 2006, after failing to eliminate the discriminatory practice by conference, conciliation and persuasion (see General Statutes § 46a-83 (f)), the

investigator certified the complaint for public hearing. See General Statutes § 46a-84 (a).

On March 9, 2006, pursuant to General Statutes § 46a-84 (b), the Office of Public Hearings served upon the complainant and the respondents, by certified mail, return receipt requested, and upon the commission, by hand delivery, a "Notice of Contested Case Proceeding and Hearing Conference," with a copy of the complaint appended thereto.

Despite receiving the notice and a copy of the complaint, the respondents failed to attend the April 5, 2006 hearing conference and failed to file an answer to the complaint.[1] Consequently, on April 19, 2006, the commission filed and duly served upon the respondents a motion for default for the respondents' failure to appear at the hearing conference and their failure to file an answer to the complaint. On May 8, 2006, having received neither an answer to the complaint nor a response to the motion for default, the presiding referee, Thomas C. Austin, Jr., granted the motion for default and scheduled a hearing in damages for July 20, 2006. All parties were given due notice of the ruling and of the hearing in damages.

On July 3, 2006, this case was reassigned to this referee. I conducted a hearing in damages on July 20, 2006. The complainant appeared pro se and the commission appeared through its counsel, Kimberly Jacobsen. The respondents did not appear at the hearing and did not file any documents in response to the issuance of the default or the notice of the hearing. The record closed on September 15, 2006, when the commission filed its post-hearing memorandum.

[1] A respondent is required to file an answer at two separate junctures. A respondent must first reply when initially served with the complaint. General Statutes § 46-83 (a). If the commission, after investigation, finds reasonable cause to believe that a discriminatory practice has occurred, and is unable to eliminate such practice informally, the case is then certified to public hearing. Thereafter, upon receipt of the formal notice of the contested case proceeding (to which a copy of the complaint is appended), a respondent must file its answer a second time or possibly face an order of default. General Statutes § 46a-84 (f).

*Findings of Fact*

1. The complainant has owned and lived in a condominium at 231 Carriage Crossing Lane in Middletown since 2000. The complainant is a lesbian, a fact known to most of her neighbors and to the respondents. (Testimony of Hartling, Transcript pp. 8-11; Ex. CHRO-2) [2]

2. At all times pertinent to this decision, respondent Jeffrey Carfi was the owner of respondent Connecticut Management Consultants, LLC (CMC), the contractual property manager for Carriage Crossing Condominium Association, Inc. (Carriage Crossing). (Exs. CHRO-1 ¶¶ 2-3, CHRO-16; Tr. 11-12) Respondent Alana McKeon was Carfi's girlfriend and an employee of CMC. (Ex. CHRO-15; Tr. 11-12, 58)

3. On or about March 11, 2004, the complainant filed a complaint with the commission against Carriage Crossing and Carfi, alleging housing discrimination based on her sex. (Ex. CHRO-3; Tr. 13) On September 28, 2004, the commission issued a preliminary draft finding of no reasonable cause to believe that discrimination had occurred. (Ex. CHRO-7; Tr. 13-14)

4. On or about October 1, 2004, David Sheridan, Carriage Crossing's attorney, mailed a copy of the commission's preliminary determination to Carfi. In an accompanying letter addressed to both Carfi and Carriage Crossing, Sheridan quoted the portion of the preliminary determination that indicated the complainant's claim of sex discrimination lacked merit. (Ex. CHRO-8)

5. Carriage Crossing maintains four outdoor bulletin boards where it posts information for the condominium owners and renters. On October 3, 2004, Carfi

[2] Hereinafter, all references to the complainant's testimony are noted simply as "Tr." followed by the transcript page number(s). References to the testimony of other witnesses include the witness's name, the abbreviation "Tr." and the page number(s). Exhibits—all of which were offered by the commission—are identified as "Ex. CHRO" followed by the assigned number.

posted a copy of Sheridan's letter on the bulletin board nearest the complainant's unit. [3] The posting was designed to embarrass the complainant and when she saw the posted letter, she was "shocked" and felt that her "privacy had been violated." She removed the letter, but another copy was posted the next day. Several people saw the posted letter. (Tr. 14-16; Ex. CHRO-1 ¶¶ 4-5)

6. The complainant feared that neighbors would blame her for the legal costs Carriage Crossing incurred in contesting her March 2004 complaint. Such costs may tend to draw funds away from other needed expenses, and are occasionally reflected in increased common fees for the individual owners. Thus, the complainant felt "embarrassed," "angry," and "stressed." (Tr. 16-17)

7. The complainant and other condominium owners were often dissatisfied with Carfi's management of the condominium complex. On October 5, 2004, the complainant hosted an open house meeting for members of the Carriage Crossing Concerned Owners (the owners association) and other unit owners to discuss their concerns about Carfi's work. Fearful of a confrontation with Carfi, the owners association hired a security guard to be present outside of the complainant's unit. (Tr. 16-19)

8. Carfi and McKeon appear at the complainant's unit as the meeting was getting under way. While Carfi handed out copies of Sheridan's letter to people arriving for the meeting, and made mocking comments about the complainant's failed complaint, McKeon videotaped various individuals outside of the complainant's unit. McKeon then moved to the complainant's window and videotaped people inside. As a result of the actions of Carfi and McKeon, some individuals decided not to attend the meeting; others, already inside, left the meeting. The complainant felt intimidated and upset. (Tr. 19-20, 56; Ex. CHRO-1 ¶¶ 8-11)

[3] Carfi was generally in charge of the bulletin boards, monitoring the postings and removing those of which he disapproved. (Tr. 15, 31; Ex. CHRO-1 ¶ 4)

9. The next day, McKeon, with Carfi's assistance, posted a one-page document on the bulletin board near the complainant's unit. The document, addressed to the owners association, stated in large, upper-case letters, "Help!!! Does anyone know where my $140.00 a month goes? I don't!!"–apparently a reference to the use of condominium fees for Carriage Crossing's defense of allegedly frivolous complaints. Added in the margins of the document were two handwritten comments, directed at the complainant and her neighbor, Nancy Handley, also a member of the owners association.

One comment, which bore the signature "Alana," stated, "You all have so much extra time on your hands! That's such a shame! I feel really sorry for you! You have no life! Don't you feel stupid?" The other comment, in the same handwriting as the first, stated in part, "Everyone is making fun of you Judy + Nancey! (sic) Judy, you're a lesbian man hater . . ." (Ex. CHRO-6, Ex. CHRO-1 ¶¶ 12-13; Tr. 21-23)

10. A neighbor, Bob Martin, saw McKeon post the document while Carfi stood nearby. Martin removed it from the bulletin board and later that day showed it to the complainant. The complainant recognized the handwriting as that of McKeon, based on other documents she had seen with McKeon's writing. The complainant was shocked and appalled when she read the letter. She was incredulous that her sexual orientation would be attacked in such a manner. (Tr. 21-25; Ex. CHRO-1 ¶¶ 12, 14)

11. Soon after seeing McKeon's written comments, the complainant called the police, who subsequently arrested McKeon for breach of peace and second-degree harassment, and Carfi for conspiracy to commit breach of peace and conspiracy to commit second-degree harassment. (Ex. CHRO-14; Tr. 25)

Both Carfi and McKeon have criminal cases pending in Superior Court. In separate February 8, 2005 pretrial hearings, Judge Holzberg issued orders restraining the two respondents from threatening or harassing the complainant

and from coming within a certain distance of the complainant's condominium unit. (Exs. CHRO-12, CHRO-13) At her court hearing, in the presence of the complainant, McKeon suggested that the complainant uses her sexual orientation to leverage sympathy for her complaints and concerns about management of Carriage Crossing. (Ex. CHRO-13, p. 4; Tr. 27-28)

12. On October 14, 2004, the commission issued its final determination that the complainant failed to demonstrate reasonable cause in her March 11, 2004 complaint. (Ex. CHRO-9; Tr. 28-29) Carfi posted the commission's cover letter, along with a notice from the Carriage Crossing executive board, on all four bulletin boards. (Exs. CHRO-10, CHRO-11; Tr. 29-32) According to the notice, the legal costs spent defending "baseless" claims, notably that of the complainant, draw from funds that might otherwise be used for capital improvements. (Ex. CHRO-10; Tr. 30-31) [4] The posting of the two documents significantly embarrassed the complainant. (Tr. 33) Indeed, after this incident, some of the owners began to ostracize the complainant. (Tr. 45)

13. At some point during the next few months, the complainant noticed "pry marks" on her back door, suggesting to her that someone was trying to break into her unit. On another occasion, none of the outdoor lights near her unit was functioning. (Tr. 33-36, 60; Ex. CHRO-22)

14. On November 18, 2004, the Carriage Crossing executive board terminated Carfi's employment, citing, among other reasons, the posting of the intimidating document referring to the complainant's sexuality, videotaping the meeting of the owners association, and other inappropriate actions taken in the response to the complainant's discrimination complaint. The board also directed Carfi and McKeon to stay away from the complainant and from her unit. (Ex. CHRO-16; Tr. 38-40)

[4] According to the uncontroverted allegation in the complaint, the president of the executive board claimed that the board never saw or authorized this notice, leading the complainant to conclude that Carfi was solely responsible for the notice's contents and posting. (Ex. CHRO-1 ¶ 17)

15. The complainant first began mental health counseling in the mid-1990 and became a patient of Marie Davila, a licensed psychotherapist, in February 2000. At first, Davila saw the complainant weekly for treatment of moderate depression, anxiety, panic attacks, fear of losing her parents (both of whom were ill), and confusion about her sexual orientation; Davila prescribed medication as well. As the complainant improved, she saw Davila less frequently, with sessions decreasing first to bi-weekly and finally to monthly. The complainant discontinued her therapy in October 2003, when her symptoms stabilized, she could effectively use her coping skills, and she had become comfortable with her sexual orientation. Davila considered the complainant's underlying depression to be in full remission at that time. (Tr. 41-43; Davila, Tr. 63-64, 67-71; Exs. CHRO-18, CHRO-19)

16. In the summer of 2004, after the complainant filed her initial discrimination complaint and while the owners association expressed growing concerns about Carfi's management of Carriage Crossing, she again began to suffer from stress, anxiety, depression and panic attacks. Consequently, she resumed treatment with Davila on or about August 31, 2004. Following the respondents' actions in early October 2004, the complainant's condition significantly worsened and Davila diagnosed her as suffering from moderate-to-severe recurring depression. The complainant withdrew from her friends and family, had difficulty sleeping, cried often, suffered from digestive problems and constantly feared retribution by the respondents. Her emotional state adversely affected her otherwise high-quality work for several months. (Tr. 43-48; Davila, Tr. 72-74, 77-80; Linda Hartling, Tr. 90-95; Fredric Hartling, Tr. 97-101; Ex. CHRO-19)

17. Throughout this period, and even after Carfi's termination, the complainant remained fearful of potential reprisals. She was "extremely stressed out" and "very afraid," and slept with a baseball bat beside her bed. She also feared for the safety of her dog while she was at work, sometimes leaving him with a friend, and placing him in a kennel on twelve different occasions at the cost of ten dollars per visit. (Tr. 36-37, 45; Ex. CHRO-22)

18. After Carfi was terminated, the complainant's condition improved somewhat and she discontinued her therapy in December 2004 after seven sessions. (Tr. 44, 48; Davila, Tr. 74, 80) To this day, however, she still recalls the events of 2004—at least once a week—and feels distraught and uncomfortable living at Carriage Crossing. Despite orders from the Superior Court and from Carriage Crossing's executive board that McKeon and Carfi stay away from the premises, the complainant has considered moving but has not found an affordable house to her liking. She tenses up whenever she sees a man resembling Carfi ("a burly bald man") or sees cars resembling Carfi's black Lincoln Navigator, and she has come to feel more vulnerable because of her sexual orientation. The complainant's parents (to whom she speaks almost daily) and therapist believe that she has suffered permanent emotional damage. (Tr. 48-53; Davila, Tr. 82-83; Linda Hartling, Tr. 95; Fredric Hartling, Tr. 100-01)

19. Davila charges $100 per hour for her services. To date, the complainant has paid—or still owes—$570 to Davila for the seven sessions in 2004. (Ex. CHRO-21; Davila, Tr. 86)

The commission paid $100 for Davila to examine the complainant on May 25, 2006, and the complainant is obligated to reimburse that sum. (Ex. CHRO-20; Davila, Tr. 86)

Davila has also charged the complainant and/or the commission an additional $525 (also at $100 per hour) for her time preparing for and testifying at the public hearing. (Davila, Tr. 86; Davila Affidavit, August 10, 2006)

*Discussion and Conclusions*

A. All jurisdictional prerequisites have been satisfied and the commission has taken all of the proper procedural steps to bring this complaint to a public hearing.

B. As stated in General Statutes § 46a-84 (f), "If the respondent fails to file a written answer prior to the hearing within the time limits established by regulation . . . the presiding officer . . . may enter an order of default and order such relief as is necessary to eliminate the discriminatory practice and make the complainant whole." Section 46a-54-86a of the Regulations of Connecticut State Agencies (the regulations) requires the respondent to file its answer to the complaint no later than fifteen days after it receives the hearing notice and copy of the complaint, even if it filed an earlier answer in response to the initial filing of the complaint. (See footnote 1.) Furthermore, according to § 46a-54-88a of the regulations, the presiding officer may enter an order of default against a respondent who fails to file a written answer as provided for in section § 46a-54-86a or fails to appear at a lawfully noticed conference or hearing. In the present case, the respondent failed to file an answer as required by the regulation and failed to appear at the duly noticed hearing conference. Accordingly, Referee Austin entered an order of default on May 8, 2006.

In a hearing in damages following a default order, the complainant need not prove the respondents' liability. All relevant, unanswered allegations in the complaint are deemed admitted without further proof and are therefore found to be true. See § 46a-54-86a (b) of the regulations. Thus, Referee Austin's entry of default established the liability of each respondent for retaliation in violation of General Statutes § 46a-64c (a) (9) and the Fair Housing Act (specifically § 3617), and liability for housing discrimination based on the complainant's sexual

orientation in violation of § 46a-81e (a).[5] As required by law, the hearing in damages was limited to eliminating the discriminatory practices and determining the appropriate relief to make the complainant whole. General Statutes § 46a-86; § 46a-54-88a (b) of the regulations; *State of Connecticut v. Commission on Human Rights & Opportunities*, 211 Conn. 464, 478 (1989); *Commission on Human Rights & Opportunities ex rel. Gilmore v. City of Waterbury,* CHRO No. 9620571 (August 11, 2000); *Commission on Human Rights & Opportunities ex rel. Rose v. Payless Shoesource,* CHRO No. 9920353 (November 1, 1999).

C. According to General Statutes § 46a-86 (c), "upon a finding of a discriminatory practice prohibited by section . . . 46a-64c . . . or 46a-81e, the presiding officer shall determine the damage suffered by the complainant, which damage shall include, but not be limited to, . . . costs actually incurred by him as a result of such discriminatory practice and shall allow reasonable attorney's fees and costs." The complainant seeks, and is entitled to recover, $670 for the cost of the psychotherapy associated with the events described in her complaint and testimony. She further seeks reimbursement for the cost of her therapist's time preparing for, attending, and testifying at the public hearing. According to the therapist's uncontroverted affidavit, she charged $525 for her time, and the respondents are also liable for that amount. See *Commission on Human Rights & Opportunities ex rel. Little v*. *Clark*, CHRO No. 9810387, p. 22 (August 2, 2000) (6 Conn. Ops. 936).

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[5] It is a discriminatory practice in violation of General Statutes § 46a-64c (a) (9) for one to "coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed . . . any right granted or protected by [§ 46a-64c]."

Section 46a-81e proscribes housing discrimination on the basis of sexual orientation. It is a discriminatory practice in violation of General Statute § 46a-81e "(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sexual orientation" or "(8) To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed . . . any right granted or protected by [§ 46a-81e]."

The complainant testified credibly that she spent $120 in kennel fees during the time she feared that the respondents might harm her dog. She is entitled to be compensated for this expense as well.

D. This tribunal's broad authority to award damages under General Statutes § 46a-86 (c) includes the authority to award damages for emotional distress or other non-economic harm. *Fulk v. Lee*, 2002 WL 316325, *3 (Conn. Super.); *Commission on Human Rights & Opportunities ex rel. Peoples v. Estate of Belinsky,* 1988 WL 492460, *5 (Conn. Super.); *Commission on Human Rights & Opportunities ex rel. Harrison v. Greco,* CHRO No. 7930433, pp. 12-14 (June 3, 1985). The public policy considerations in support of emotional distress damages in housing discrimination cases are extensively discussed in *Commission ex rel. Harrison v. Greco,* supra. For example, "[a]warding humiliation and mental distress damages would deter discrimination and encourage filing complaints, particularly in the housing area where actual out-of-pocket damages are often small." Id., 13. That damages for emotional distress are not readily subject to precise mathematical computation is insufficient reason to deny them once the right to such damages has been established. *Commission on Human Rights & Opportunities ex rel. Thomas v. Mills*, CHRO No. 9510408, p. 8 (August 5, 1998); *Commission on Human Rights & Opportunities ex rel. Cohen v. Menillo*, CHRO No. 9420047, pp. 12-13 (June 21, 1995).

Criteria to be considered when awarding damages for emotional distress include: the complainant's subjective internal emotional reaction to the respondents' actions; the public nature of the respondents' actions; the degree of offensiveness of those actions; and the impact of those actions on the complainant. *Commission ex rel. Peoples v. Belinsky,* supra, 1988 WL 492460, *6-7; *Commission on Human Rights & Opportunities ex rel. Aguiar v. Frenzilli,* CHRO No. 9850105, pp. 9-15 (January 14, 2000); *Commission ex rel. Harrison v. Greco,* supra, 15-17. The complainant and her witnesses presented detailed testimony establishing the existence of all of these factors.

The complainant's subjective emotional reaction is the most important consideration in calculating emotional distress damages. *Commission ex rel. Thomas v. Mills*, supra, 6-7; *Commission ex rel. Harrison v. Greco*, supra, 15. A complainant need not present medical testimony to establish her internal emotional response to the respondents' actions; her own testimony may suffice. See, e.g., *Schanzer v. United Technologies Corp.,* 120 F.Sup.2d 200, 217 (D.Conn. 2000); *Berry v*. *Loiseau*, 223 Conn. 786, 811 (1992); *Commission on Human Rights & Opportunities ex rel. McNeal-Morris v. Gnat*, CHRO No. 9950108, p. 7 (January 4, 2000). Medical testimony, however, may strengthen a case; *Busche v. Burkee,* 649 F.2d 509, 519 n. 12 (7th Cir. 1981); just as the testimony of relatives, friends and business associates may also provide insight into a complainant's emotional state; *Blackburn v*. *Martin,* 982 F.2d 125, 132 (4th Cir. 1992).

The credible testimony of the complainant, her parents and her therapist convincingly demonstrates that the respondents' actions profoundly distressed the complainant. See *Commission ex rel. McNeal-Morris v*. *Gnat*, supra, 7; *Commission ex rel. Little v. Clark*, supra, 18. In Davila's professional opinion, the respondents' actions triggered and exacerbated the complainant's dormant symptoms of depression and anxiety, necessitating her return to therapy. Davila's expert testimony supports the complainant's own description of her

emotional distress, including her embarrassment in front of her neighbors, her fears of retribution, her digestive problems, her withdrawal from friends and family, her discomfort with her sexual orientation, and a temporary downturn in her productivity at work. The complainant's parents, who spoke with their daughter almost daily, observed the impacts of the respondents' actions. Under oath, they each described the complainant's constant anxiety, fear and frustration. Both feared that their daughter would never again be the joyful and assertive person she once was.

When discriminatory actions occur in front of other people, the victim may be further humiliated and thus deserve a higher award. See *Commission ex rel. Little v*. *Clark*, supra, 18. Indeed, this critical factor justified relatively large awards (at that time) in several cases; see, e.g., *Commission ex rel. Thomas v. Mills, supra; Commission ex rel. Cohen v. Menillo,* supra. Conversely, the absence of a public display of discrimination weighs against a substantial award. *Commission ex rel. Peoples v. Belinsky,* supra, 1988 WL 492460, *7 (the absence of such public display led to an award of $3500, lower than the $5000 requested); *Commission ex rel. McNeal-Morris v. Gnat,* supra, 7-8 (the absence of a public display of discrimination militates against a substantial award).

The record contains ample and credible evidence of the public nature of the respondents' discriminatory actions. The documents relating to the complainant's prior complaint were posted on the community bulletin boards, intended to be visible and accessible to anyone passing by; Carfi's dissemination of some of these documents at the October 5 owners association meeting—along with his snide comments—further ensured the complainant's embarrassment and public humiliation in the eyes of her neighbors. McKeon's videotaping during the meeting, in full view of passersby and attendees (see FF #8), likewise intimidated the complainant. Moreover, at least one person read, and shared with the complainant, the publicly posted comments about the complainant's sexuality—vicious and embarrassing comments that clearly exacerbated her distress.

The offensiveness of the respondents' conduct—an objective assessment—is readily apparent, and the catalog of incidents set forth in the above findings of fact needs little reiteration here. The respondents' ongoing actions, by any objective standard, were highly offensive and indubitably intended to produce pain, embarrassment and humiliation. Cf. *Commission ex rel. Thomas v*. *Mills*, supra, (over the course of several months, the respondent repeatedly—and publicly—taunted, harassed, and threatened the complainant because of her disability and sexual orientation, causing her to live in fear that the respondent would seriously harm her). The derogatory comments about the complainant's

sexuality (later underscored by McKeon's insensitive remarks at her court hearing) were so egregiously hostile as to warrant criminal prosecutions against McKeon and Carfi. Moreover, the respondents' actions convey a strong but inappropriate message to the complainant—as well as to other owners—that the assertion of rights granted by fair housing laws would not be tolerated**.**

The complainant's emotional harm, unquestionably debilitating at first, also appears to have long-term ramifications. The evidence demonstrates that the complainant's distress had not abated by the time of the public hearing. (See FF #18.) Both the therapist, whose expertise includes treatment of women victimized by discrimination (including sexual harassment), and the complainant's parents, in their familial intimacy with their daughter, acknowledge that the complainant likely has suffered permanent emotional damage.

The complainant seeks emotional distress damages in the amount of $50,000 (plus interest), supporting her demand with an array of commission, state court, and federal court cases, many of which contain factual scenarios dissimilar to the one presented here. I agree with the commission that the respondents' actions warrant a meaningful, indeed substantial, award, but disagree with the amount requested.

In 1998, the hearing officer in *Commission ex rel. Thomas v. Mills* noted that, other than one anomalous $75,000 award,[6] Connecticut decisions "have as their high water mark the $15,000 award for emotional distress damages in the Murphy case." [7] Id., 9. Surpassing this limit, the hearing officer awarded the

[6] Following a hearing in damages, the hearing officer in *Commission on Human Rights and Opportunities ex rel. Planas v*. *Bierko*, CHRO No. 9420599 (February 8, 1995) awarded $75,000 to a Hispanic tenant who suffered ongoing harassment at the hands of her landlord. With few facts and little legal analysis, the hearing officer relied upon federal decisions in calculating the damages award. Federal awards for emotional distress in cases of housing discrimination have consistently been much higher than awards from this tribunal.

[7] The reference is to *Commission on Human Rights and Opportunities ex rel. Gonzales v*. *Murphy*, CHRO No. 9210241 (December 30, 1992).

complainant $25,000 for the respondent's outlandish conduct, which included intense and repeated taunts and threats, verbal abuse, and harassment over the course of several months, all relating to the complainant's disability and sexual orientation. Furthermore, these actions occurred in a public place in front of many people, exacerbating her humiliation. According to the decision, the complainant continued to live "in fear that the Respondent [would] return and seriously hurt her." Id., 5.

*Commission ex rel. Thomas v. Mills*, although not a housing discrimination case, informatively applies the criteria a decision maker must consider in a case such as this. As in *Mills*, the respondents' actions in the present case were directed at the complainant in a public setting, had profound, long-term effects on the complainant, and were highly offensive—although here the actions were fewer in number and not as blatantly vulgar.

Further guidance comes from the 2000 decision in *Commission ex rel. Little v. Clark*, supra, a housing discrimination case involving a complainant who suffered visibly from Parkinson's disease and exhibited awkward, involuntary movements attributable to his medication. A neighboring teenager and his friends verbally taunted the disabled complainant when he worked in his yard; wrote mocking comments with chalk on the street in front of his home; rang his doorbell and made "hang-up" phone calls to him in the middle of the night; threw feces and gravel onto his property; and, on several occasions, vandalized the siding on his garage, a gutter downspout, and a window screen. Not only were the complainant's physical symptoms exacerbated, but he was so overwhelmed with fear, humiliation and helplessness that he stopped working in his yard, had difficulty sleeping, and kept a shotgun beside his bed (just as the fearful complainant in the present case felt more secure with a baseball bat by her bedside). The presiding officer rejected the claim for $75,000 as inconsistent with other, significantly lower commission awards, noting further that many of the respondents' actions did not occur in front of others. Nonetheless, based on the testimony of the complainant, his wife and his psychiatrist, the presiding officer

awarded emotional distress damages in the amount of $20,000 for violation of state and federal fair housing laws, an award tempered by the fact that many of the respondents' actions were not observed by others.

Even using *Commission ex rel. Thomas v*. *Mills* and *Commission ex rel. Little v. Clark* as logical guideposts, and recognizing that damage awards from this tribunal continue to increase over time, I nonetheless cannot ignore the complainant's own testimony that not all of the respondents' offensive actions were prompted by her sexual orientation or her prior complaint to the commission. The complainant acknowledged that McKeon's videotaping was likely motivated by the complainant's involvement with the owners association, and she conceded that the respondents would likely have disrupted the owners association meeting even if it had been at another unit. (Tr. 54-56) Other members of the owners association also suffered minor vandalism, which they assumed was due to their opposition to the management of the condominium. (Tr. 34-36) The offensive comments on the bulletin board about the complainant's sexual orientation were also accompanied by vulgar comments aimed at Nancy Handley, another active member of the owners association. (Ex. CHRO-6; Tr. 36)

Notwithstanding the respondents' other possible motivations for their offensive conduct, there is no question that their discriminatory actions resulted in the complainant's severe emotional distress. Accordingly, I conclude that an award of $25,000 would be fair and appropriate.

*Final Decision and Order of Relief*

1. Within one week of the date of this decision, the respondents shall pay to the complainant damages in the amount of twenty-six thousand, three hundred and fifteen dollars ($26,315) based on the following:

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|---|---|
| Cost for psychotherapy…….. | $ 670 |
| Cost of expert witness ……. | 525 |
| Cost of placing dog in kennel……. | 120 |
| Emotional distress…….. | 25,000 |
| TOTAL ……. | $26,315 |

The respondents are jointly and severally liable for these damages.

2. Pursuant to General Statutes § 37-3a, post-judgment simple interest shall accrue on the unpaid balance at the rate of 10% per annum, from the date payment is due.

3. The respondents shall cease and desist from engaging in any discriminatory conduct with regard to any residential property.

4. The respondents shall not—and shall ensure that their employees do not—retaliate against the complainant or any person who participated in this proceeding.

_____
David S. Knishkowy
Human Rights Referee

c: J. Hartling
K. Jacobsen
A. McKeon
J. Carfi
Connecticut Management Consultants

**PARTY LIST**

| Party | Represented by |
|---|---|
| Commission on Human Rights and Opportunities | Kimberly Jacobsen, Esquire<br>Commission on Human Rights and Opportunities<br>21 Grand Street<br>Hartford, CT 06106 |
| Judy Hartling<br>231 Carriage Crossing<br>Middletown, CT 06457 | [pro se complainant] |
| Connecticut Mgmt. Consultants<br>94 Percival Avenue<br>Kensington, CT 06037 | [non-appearing respondent] |
| Jeffrey Carfi<br>c/o Connecticut Mgmt. Consultants<br>94 Percival Avenue<br>Kensington, CT 06037 | [non-appearing respondent] |
| Alana McKeon<br>c/o Connecticut Mgmt. Consultants<br>94 Percival Avenue<br>Kensington, CT 06037 | [non-appearing respondent] |