

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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PEOPLE OF THE STATE OF NEW YORK,  
by ANDREW M. CUOMO, ATTORNEY GENERAL  
OF THE STATE OF NEW YORK,

Case No.

Plaintiffs,  
--against--

COMPLAINT &  
JURY DEMAND

SOCHA MANAGEMENT, INC.; and  
DEANA TOPE,

Defendants.

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The People of the State of New York, by and through their attorney, Andrew M. Cuomo, Attorney General of the State of New York, as and for their complaint, allege as follows:

**PRELIMINARY STATEMENT**

1. This action is brought by the People of the State of New York against Socha Management, Inc. (“Socha”) and its agent, Deana Tope (“Tope”), for their pattern and practice of discriminating against African-Americans and families with children who seek to live at Shady Lane Apartments, a 444-unit residential rental complex located at 133 Saratoga Road, Glenville, New York. Socha owns and manages Shady Lane Apartments and Tope is the rental agent at Shady Lane Apartments. Defendants’ discriminatory practices deprive African-Americans and families with children of the opportunity to rent apartments at Shady Lane Apartments.
2. Plaintiffs’ federal claims arise under 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.* (“Fair Housing Act”); 42 U.S.C. § 1981, as amended by the Civil Rights Act of 1991; and 42 U.S.C. § 1982. Plaintiffs’ state and local law claims arise under New York State Human

Rights Law, New York State Executive Law § 296(5); New York State Civil Rights Law § 40-c; and New York State Executive Law § 63(12).

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction pursuant to 42 U.S.C. § 3613, 28 U.S.C. § 1331, and 28 U.S.C. § 1343. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) in that the events or omissions giving rise to this action occurred in the Northern District of New York.

### **PARTIES**

5. Plaintiffs, the People of the State of New York, are represented by their chief legal officer, Andrew M. Cuomo, Attorney General of the State of New York. Where, as here, the interests and well being of the people of the State of New York as a whole are implicated, the Attorney General possesses *parens patriae* authority to commence legal actions in federal court for violations of federal and New York State law.
6. The State of New York has a quasi-sovereign interest in protecting residents from the harmful effects of housing discrimination and preventing the substantial social and economic harm created thereby. Discrimination in the rental of housing harms all New Yorkers by depriving its citizens of long-standing rights and fostering and perpetuating a separate and unequal society rejected by the courts and this country for decades.
7. The discriminatory practices at issue here have harmed and will continue to harm a substantial segment of the population, namely African-Americans and families with children seeking to rent apartments at Shady Lane Apartments. These practices significantly impede the ability of all current and future residents of Shady Lane Apartments to live in an integrated and diverse community free from discrimination and

open to all. In addition, these practices prevent families with children from having equal access to schools and other neighborhood services, including parks and playgrounds.

8. Absent action by the Attorney General, African-Americans and families with children who are denied the opportunity to rent apartments at Shady Lane Apartments will be unable to meaningfully and promptly vindicate their rights and will, collectively, suffer irreparable harm. Individuals who have been the subject of housing discrimination are unlikely to bring private suits because they are often not in a position to know that they are being treated unfavorably and unlawfully discriminated against. If harmed individuals do bring private suits, their own individualized interests may impede their ability to effectively seek necessary broad injunctive relief to stop the discriminatory practices. Therefore, complete relief cannot be obtained through private lawsuits by individual plaintiffs.
9. Defendant Socha, at all relevant times to this Complaint, has been the owner of and management company for Shady Lane Apartments, with its principal place of business located at 123 Saratoga Road, Glenville, New York 12303.
10. Defendant Tope, at all relevant times to this Complaint, has been employed by Socha as an agent for Shady Lane Apartments. While acting within the scope of her authority as agent, Defendant Tope is responsible, among other things, for the rental of apartments at Shady Lane Apartments and was personally involved in the unlawful housing discrimination practices described herein.

### **FACTUAL ALLEGATIONS**

11. Beginning in March 2009 and continuing over the course of several months, the Attorney General's Office conducted fair housing tests in which paired individuals with similar

characteristics, except for familial status or race, visited Shady Lane Apartments and inquired about the availability of two-bedroom apartments. The OAG recorded these tests to assess whether illegal discrimination is occurring.

12. The fair housing tests revealed that Defendants are engaged in a pattern and practice of housing discrimination on the basis of familial status at Shady Lane Apartments by, among other things, engaging in the following practices:

- a. Telling applicants without children that there were apartments to rent and, within hours on the same day, telling applicants with children that there were no apartments to rent when in fact there were apartments available;
- b. Asking applicants whether they had children or planned to have children and stating that families with children would not be able to rent certain apartments; and
- c. Making comments that Shady Lane Apartments does not want any young kids and that they screen people accordingly.

13. The fair housing tests also revealed that Defendants are engaged in a pattern and practice of housing discrimination on the basis of race or color at Shady Lane Apartments by, among other things, engaging in the following practices:

- a. In some tests, telling African-American applicants that they had to make an appointment and fill out an application before viewing any available apartment, whereas allowing white applicants the opportunity to view available apartments immediately without filling out an application or making an appointment; and
- b. In other tests, encouraging white applicants to apply for an apartment by personally escorting them to view the available apartments, inquiring about their

preferences, explaining the various amenities, and offering them the opportunity to change cosmetic aspects of the apartment that they disliked whereas discouraging African-American applicants from applying by having them view the apartment on their own without any personalized attention, not inquiring about their preferences, not telling them about the same amenities, and refusing to change the same cosmetic aspects of the apartment.

**FIRST CAUSE OF ACTION**  
**FAIR HOUSING ACT, 42 U.S.C. § 3604(a), (b), (c), & (d)**

14. The Fair Housing Act, 42. U.S.C. § 3604, makes it unlawful:
  - a. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.
  - b. 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 race, color, religion, sex, familial status, or national origin.
  - c. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.
  - d. To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
15. Shady Lane Apartments are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
16. Defendants, through actions including those described above, have engaged in a pattern

and practice of housing discrimination on the basis of race or color and familial status at Shady Lane Apartments by:

- a. Refusing to rent, or negotiate for the rental of, or by otherwise making unavailable or denying dwellings to persons because of race, color, and/or familial status, in violation of 42 U.S.C. § 3604(a);
- b. Discriminating against persons in the terms, conditions, or privileges of rental, or in the provision of services or facilities in connection therewith, because of race, color, and/or familial status, in violation of 42 U.S.C. § 3604(b);
- c. Making, or causing to be made, statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c); and
- d. Representing to persons because of race, color, and/or familial status that dwellings are not available for rental when such dwellings are in fact so available, in violation of 42 U.S.C. § 3604(d).

17. Defendants' conduct described above was intentional, willful, and taken in disregard for the rights of others.

18. Defendants have thereby violated 42 U.S.C. § 3604.

**SECOND CAUSE OF ACTION**  
**42 U.S.C. § 1981**

19. 42 U.S.C. § 1981 guarantees all persons the same right "to make and enforce contracts" as is enjoyed by white persons.

20. Defendants' pattern and practice of housing discrimination denies African-American

persons the same rights enjoyed by white persons to contract for apartments at Shady Lane Apartments.

21. Defendants have thereby violated 42 U.S.C. § 1981.

**THIRD CAUSE OF ACTION**  
**42 U.S.C. § 1982**

22. 42 U.S.C. § 1982 ensures that all “citizens shall have the same right . . . as is enjoyed by white citizens . . . to inherit, purchase, lease, sell, hold, and convey real and personal property.”
23. Defendants’ pattern and practice of housing discrimination denies African-American applicants the same rights enjoyed by white applicants to lease apartments at Shady Lane Apartments.
24. Defendants have thereby violated 42 U.S.C. § 1982.

**FOURTH CAUSE OF ACTION**  
**NEW YORK STATE EXECUTIVE LAW § 296(5)**

25. New York State Executive Law § 296(5) makes it unlawful for the owner or managing agent of a housing accommodation, or their agents and employees:
  - a. To refuse to sell, rent, lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available.
  - b. To discriminate against any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

26. Shady Lane Apartments are housing accommodations pursuant to New York State Executive Law § 292(1).
27. Defendants have engaged in a pattern and practice of housing discrimination by refusing to rent, or otherwise make unavailable and deny housing accommodations to African-Americans based on their race and families with children. Defendants also discriminate in the terms, conditions, or privileges of rental.
28. Defendants' conduct described above was willful, wanton, or malicious.
29. Defendants have thereby violated New York State Executive Law § 296(5).

**FIFTH CAUSE OF ACTION**  
**NEW YORK STATE CIVIL RIGHTS LAW § 40-c**

30. New York State Civil Rights Law § 40-c prohibits the denial of civil rights on the basis of a person's race.
31. Defendants' pattern and practice of housing discrimination denies African-Americans the right to rent apartments at Shady Lane Apartments, which is a denial of civil rights on the basis of a person's race.
32. Defendants have thereby violated New York State Civil Rights Law § 40-c.

**SIXTH CAUSE OF ACTION**  
**NEW YORK STATE EXECUTIVE LAW § 63(12)**

33. New York State Executive Law § 63(12) prohibits repeated and persistent illegal acts in the carrying out of a business.
34. Defendants have repeatedly and persistently violated 42 U.S.C. § 3604, 42 U.S.C. § 1981, 42 U.S.C. § 1982, New York State Executive Law § 296(5), and New York State Civil Rights Law § 40-c by engaging in a pattern and practice of housing discrimination on the basis of race or color and familial status at Shady Lane Apartments.

35. Defendants have thereby violated New York State Executive Law § 63(12).

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs request that this Court:

- a) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that Defendants' policies and practices, as alleged herein, violate the Fair Housing Act, 42 U.S.C. § 1981, 42 U.S.C. § 1982, New York State Executive Law § 296(5), New York State Civil Rights Law § 40-c, and New York State Executive Law § 63(12);
- b) Enjoin Defendants' unlawful discriminatory pattern and practice of denying African-Americans and families with children the opportunity to rent apartments at Shady Lane Apartments on the basis of race, color and familial status, and order Socha to implement policies and procedures sufficient to prevent such unlawful actions in the future;
- c) Assess civil penalties against Defendants pursuant to New York State Executive Law § 297 and New York State Civil Rights Law § 40-d;
- d) Award appropriate compensatory and punitive damages;
- e) Award Plaintiffs reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and 42 U.S.C. § 3613(c)(2); and
- f) Award such other and further relief as this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury.

Dated: New York, New York  
July 6, 2010

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