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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

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AUG 22 1995

*Robert M. March*  
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SYLVIA MARTINEZ, et. al.,

Plaintiffs,

VS.

NO. CV 93-1156LH/DJS

BENJAMIN J. AND GEE~ALDINE  
M. ROE,

Defendants.

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NEW MEXICO DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

PERMANENT INJUNCTION

THIS MATTER came before the Court for a hearing on August 18, 1995, an Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Docket No. 17). On July 28, 1995, the Court granted a Temporary Restraining Order which expired by its own terms on August 18, 1995. (Docket No- 22). The Court, having reviewed the submissions of both parties, having heard and reviewed the evidence presented at the hearing, and having heard arguments of the parties, concludes that the Plaintiffs will be irreparably injured unless Defendants are enjoined from performing various actions, as set out below, and that Plaintiffs' motion is therefore granted.

I. The Court makes the following FINDINGS:

A. The irreparable harm Plaintiffs and members of the class face is the loss of their possessory interest in their fed&all-f Subsidized apartments (the Valle Del Norte Apartments or "VDNA" ) and/or the threat: of further litigation and/or harm and/or

harassment directed at them by Defendants.

B. Defendants entered into a "Regulatory Agreement for Limited Distribution Mortgagors under Section 236 of the National Housing Act, as Amended" (Exhibit 1). This Regulatory Agreement has continuously been in effect since September 1, 1971. Paragraph Six of the Agreement specifies certain actions which Defendants may not take without the prior written approval of the Commissioner.

C. On January 22, 1992, Defendants Roscoe entered into a Settlement Agreement with HUD. The Settlement Agreement is found at Plaintiffs' Exhibit A-2 of the original proceeding in this matter.

11. This Court's October 8, 1993 Permanent Injunction permanently enjoined Defendants from: (a) attempting to evict any tenants who have complied with HUD approved lease requirements, unless the eviction arises from the lease term; (b) altering the HUD approved leases currently in force; (c) violating §236 of the National Housing Act, 12 U.S.C. 17152-1. and 24 C.F.R. 9236; and, (d) acting in any managerial capacity involving VDNA contrary to the terms of the January 22, 1992 Settlement Agreement.

E. Pursuant to the October 8, 1995 Injunction, all management duties, rights and responsibilities were assigned to Sovereign Management Corporation ("Soversign"), by contract, dated October 20, 1993. Under this agreement, VDNA tenants paid all rents to Sovereign, entered into new leases, in conformance with HUD regulatory requirements, through Sovereign, and performed any and all other tenant obligations solely through Sovereign.

F. On March 23, 1995, HUD notified Defendants that they were suspended from further participation in covered transactions and contracts, pending the outcome of a proposed debarment action. The proposed action would debar Defendants and their affiliates

. from participating in HUD covered transactions as participants or principals at I and throughout the Executive Branch of the Federal Government for a period of five years, beginning on October 5, 1992. (Exhibi; 5).

G. On June 26, 1995, Administrative Law Judge Heinz issued an Initial Determination, determining that good cause exists to debar Defendants from participating in covered transactions with H-(1D and throughout the Executive Branch of the Federal Government for a period of five years (Exhibit 6) - A Final Determination imposed this debarment on August 8, 1995 (Exhibit 7).

H. Testimony from Robert L, Salazar, Albuquerque Multifamily Outstation Branch, Department of Housing and Urban Development, indicated that Defendants have appealed this debarment decision, which remains in effect during the pendency of the appellate process.

I. Defendants have engaged in the following illegal actions:

(1) On June 1, 199.5, Defendant Benjamin J. Roscoe sent a letter to various EDNA tenants, stating that the m-approved manager for the property was terminated and that King's Property Management Inc. was taking over management. He also informed them that the current leases were being superseded by a new month-to-month lease attached to the letter.

(2) Defendant Benjamin Roscoe filed eviction proceedings in Bernalillo County Metropolitan Court against Sylvia Martinez, Yvonne Lovato and Elsie Mares, claiming non-payment of rent for July, 1995. Robert Salazar is a named defendant in these proceedings,

These unilateral attempts to assume managerial duties at VDNA, to substitute leases which are not HUD approved leases, to

, demand rents from tenants, to seek evictions of Plaintiffs or other members of the class constitute violations of this Court's prior Injunction, the Settlement Agreement, the Regulatory Agreement (Ex. 11, the terms of Defendants' suspension by HUD (Exhibits 51, HUD's Final Determination of Debarment, -(Exhibit 71, and other HUD law and regulations.

11. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants Roscoe be, and hereby are, enjoined from:

A. Violating the Regulatory Agreement, the Settlement Agreement, the Initial Determination and the Final Determination which excludes Mr. Roscoe from "all participation in covered transzctions at HUD and throughout the Executive Branch of the Federal Government and from participating in procurement contracts with HUD for five years ending On October 4, 1997 credit being given for his exclusion from October 5, 1992." (Exhibit 7). Despite any appeal which may be taken from the Final Determination, it shall remain in force and effect during the pendency of the appeal.

B. Specifically, during this five year period, Defendants are hereby enjoined from acting in any managerial capacity involving the Valle Del Norte Apartments, including :

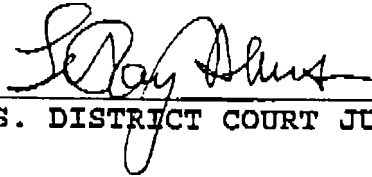
(1) Collecting rent from VDNA tenants and requiring tenants to sign new leases;

(2) Attempting to evict or seek damages from any tenants. Defendants are hereby ordered to dismiss all proceedings in Bernalillo County Metropolitan Court currently pending against Plaintiffs, clas= *members* and /or Robert Salazar and to refrain from filing any further litigation against these parties. He is further enjoined from contacting the Plaintiffs and/or class

. **members** for the purpose of **harassment**.

(3) Attempting to substitute any leases which **are** not HUD approved.

(4) Further violating this Court's Order Certifying Class Membership and Granting Permanent Injunction, and all applicable federal statutes and regulations.



U.S. DISTRICT COURT JUDGE

For Plaintiffs:

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For Defendants:

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