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UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF NEW YORK

ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

SECOND HOUSING COMPANY, INC.

Defendant

**CV 07** Civil Action

**5327**

: File No.

: COMPLAINT

**VITALIANO, J.**

**AZRACK, J.**

Plaintiff, ELAINE L. CHAO, Secretary of Labor, United States Department of Labor, brings this action seeking all appropriate relief pursuant to the provisions of section 11(c) of the Occupational Safety and Health Act of 1970, as amended, (hereinafter referred to as the Act) (84 Stat. 1590, 29 U.S.C. 651 et seq.), to enforce the provisions of Section 11(c) of the Act, and Regulations published at 29 C.F.R. Part 1977.

I

Jurisdiction is conferred upon the Court by Section 11(c)(2) of the Act.

II

Defendant, SECOND HOUSING, Inc., is a New York corporation engaged in the business of operating residential units at 161-29 Harry Van Ardsdale Avenue, NY within the jurisdiction of this Court.

III

Defendant Corporation is a person as defined in section 3(4) of the Act.

IV

Prior to January 9, 2006 Christopher Miller was employed by the Defendant and was an employee as defined by sections 3(5) and 3(6) of the Act.

V

On or about January 9, 2006, a complaint was timely filed with the plaintiff alleging that the defendant discriminated against Christopher Miller in violation of section 11(c)(1) of the Act.

VI

Plaintiff thereafter investigated the above complaint in accordance with section 11(c)(2) and determined that the defendant violated section 11(c)(1) of the Act.

VII

On or about January 9, 2006, defendant discharged the employee because he engaged in activity protected by section 11(c)(1) of the Act. Although untrained in the handling of hazardous materials, Mr. Miller was directed to clean a compactor room that had just been “bombed” with insecticide. When he asked for personal protective equipment to do the assignment without exposing himself to the toxins in the room, he was given inadequate equipment, and again directed to do the job. Mr. Miller objected voicing his genuine concern that the assignment was unsafe and unhealthy. In response, defendant discharged him in retaliation for OSHA protected activity.

VIII

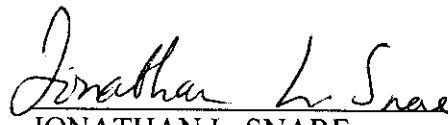
By the acts described above defendant discriminated, and is discriminating, against the employee because of his attempts to exercise a right under or related to the Act, and thereby is engaging in conduct in violation of section 11(c)(1) of the Act.


WHEREFORE, cause having been shown, plaintiff prays for a judgment permanently enjoining defendant, the officers, agents, employees and all persons acting or

claiming to act in their behalf and interest from violating the provisions of section 11(c)(1) of the Act (29 U.S.C. Section 660(c)(1)) and for this Court to Order:

1. all appropriate equitable relief;
2. posting in a prominent place for 180 consecutive days and compliance with, a notice stating they will not in any manner discriminate against employees because of engagement in activities protected by section 11(c) of the Act, and
3. the costs, fees and expenses of this action.

DATED: December 13, 2007  
New York, New York

  
JONATHAN L. SNARE  
Acting Solicitor of Labor

  
PATRICIA M. RODENHAUSEN  
Regional Solicitor

BY:

  
DOUGLAS WEINER  
Senior Trial Attorney

U.S. Department of Labor  
Attorneys for Plaintiff.