

Douglas Weiner, Esq.  
Office of the Solicitor  
U.S. Department of Labor  
201 Varick Street, Room 983  
New York, New York 10014

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

: Civil Action  
:  
: File No. 07-CV-05327-ENV-JMA  
:  
: CONSENT JUDGMENT  
:  
:  
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Plaintiff has filed her complaint and defendant has appeared by counsel, and without admitting or denying the allegations of the complaint, has agreed to the entry of this Order and Judgment without contest. It is, therefore, upon motion of the attorneys for plaintiff, and for cause shown:

I. ORDERED, that defendant, and the officers, agents, employees and those persons in active concert or participation with defendant are permanently enjoined from violating the provisions of section 11(c)(1) of the Occupational Safety and Health Act of 1970, (84 Stat. 1590; 29 U.S.C. 651 et seq.), hereinafter called the Act, in any of the following manners:

The defendant shall not, contrary to Section 11(c)(1) of the Act, discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to the Act or has testified or is about to

testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by the Act; and it is further

II. ORDERED, that defendants shall pay \$66,000 in back wages, plus interest, from which regular legal payroll deductions are taken and regular payroll taxes are paid. This payment shall be made in the manner set forth in Exhibit A, attached, and it is further

III. ORDERED that a copy of each certified check and cover letter when due as set forth in Exhibit A shall be simultaneously sent to United States Department of Labor – OSHA, Michael Mabee, Regional Supervisory Investigator 201 Varick Street, Room 628, New York, New York 10014; and Douglas Weiner, Esq., U.S. Department of Labor, Office of the Regional Solicitor, 201 Varick Street, Room 983, New York, New York 10014, and it is further

IV. ORDERED, that in the event CHRISTOPHER MILLER seeks employment elsewhere, defendant shall provide prospective employers or other persons making inquiry into his employment by the defendant, only the dates of his employment, and job title of positions held, and it is further

V. ORDERED that the defendant shall post at the place of employment and comply with the terms of the attached OSHA Poster 3165 (English) and Poster 3167 (Spanish); and it is

VI. FURTHER ORDERED that the defendants shall distribute a copy of OSHA Fact Sheet "Your Rights As A Whistleblower" to each employee at the place of employment; and it is

VII. FURTHER ORDERED that in the event that any installment payment is not made within ten days of the due date as set forth in Exhibit A, the remaining installment payments shall become due immediately, and it is further

ORDERED that neither defendants nor anyone on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Judgment; and it is further

ORDERED that if the defendant fails to make any of the installment payments as set forth above, then the Court shall appoint John Braslow, Esq. as a Receiver. If John Braslow, Esq. is unavailable or declines to act as a Receiver, the plaintiff shall provide the Court with the names of potential Receivers. The Court may appoint the Receiver from those offered by the Secretary or may appoint another Receiver at its discretion. In the event a Receiver is appointed, it is further

ORDERED that defendants shall produce to the Court appointed Receiver all books and records and any other information the Receiver requires to carry out the provisions of this Judgment. In addition, the defendants shall submit to a sworn accounting by an independent certified public accountant and/or the Receiver, and shall testify, if the accountant or Receiver so decides; and it is further

ORDERED that all the expenses of the accountant or Receiver shall be borne solely by defendants; and it is further

ORDERED that if the Court appoints a Receiver, the Receiver shall serve until the payment of the monetary terms of this Judgment are satisfied; and it is further

ORDERED that the Receiver shall have full authority to: collect the Defendants' assets and report his/her findings to the Court and the parties; to redeem and/or liquidate the defendants' assets and turn over the proceeds to the Secretary; if the asset is a debt that is due, collect it and turn over the proceeds to the Secretary; to analyze all indebtedness and where deemed appropriate seek restructuring; to analyze all transfers of the defendants' assets; to prevent waste or fraud; and to do all acts and take all measures necessary or proper for the efficient performance of the duties under this Judgment and Order; and it is further

ORDERED that each party shall bear their own fees and other expenses incurred in

connection with any stage of this proceeding.

So Ordered

DATED:  
Brooklyn, New York

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HONORABLE ERIC N. VITALIANO  
UNITED STATES DISTRICT JUDGE

Entry of this Judgment is  
hereby consented to.

SECOND HOUSING COMPANY, INC

CORP.  
SEAL

BY: Frank M. [Signature]  
Authorized corporate officer

Lawrence Z. Lorber [Signature]  
PROSKAUER ROSE LLP  
LAWRENCE Z. LORBER, ESQ.  
Attorneys for the defendant

Douglas Weiner [Signature]  
DOUGLAS WEINER, ESQ.  
Senior Trial Attorney  
U. S. Department of Labor

## EXHIBIT A

In accordance with the payment schedule below, Defendants, Second Housing Company, shall forward 9 monthly checks, in the amount listed on the payment schedule (minus standard payroll deductions), payable to Christopher Miller on or before the payment date to:

Christopher Miller  
 c/o Borrelli & Associates, P.C.  
 ATTN: Michael J. Borrelli, Esq.  
 999 Walt Whitman Road, Suite 100  
 Melville, New York 11747

A photocopy of each check must be sent to:

Investigator Mark McGovern  
 U.S. Dept. of Labor - OSHA  
 201 Varick Street, Room 908  
 New York, NY 10014

**Payment Schedule**

<b>Payment Date</b>	<b>Payment</b>	<b>Remaining Balance</b>
12/15/2007	<b>\$7,579.94</b>	\$58,860.06
1/15/2008	<b>\$7,579.94</b>	\$51,672.52
2/15/2008	<b>\$7,579.94</b>	\$44,437.06
3/15/2008	<b>\$7,579.94</b>	\$37,153.37
4/15/2008	<b>\$7,579.94</b>	\$29,821.12
5/15/2008	<b>\$7,579.94</b>	\$22,439.99
6/15/2008	<b>\$7,579.94</b>	\$15,009.65
7/15/2008	<b>\$7,579.94</b>	\$7,529.77
8/15/2008	<b>\$7,579.97</b>	\$0.00

Further, Defendants, Second Housing Company shall provide the appropriate tax forms (W2 or 1099) to Christopher Miller for tax years 2007 and 2008.