

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73 C 1529
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 AND TRUMP MANAGEMENT INC.,) PROPOSED ORDER
)
 Defendants.)
 _____)

This matter is before the Court upon defendants' Motion to Dismiss and Motion for More Definite Statement. The pleading in question is the Complaint plaintiff filed under the 1968 Civil Rights Act, 42 U.S.C. 3601 et seq., alleging discrimination in housing. This matter is also before the Court upon plaintiff's motion to dismiss defendants' counterclaim.

After careful consideration of these matters the Court concludes as follows:

1. For purposes of a motion to dismiss, the allegations of the complaint are deemed admitted and are to be construed in the light most favorable to plaintiff. A complaint may be dismissed for failure to state a claim only when it appears beyond doubt that plaintiff would be unable to prove a set of facts which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957); United States v. Georgia Power Co., 301 F. Supp. 538, 541 (N.D. Ga. 1969). The complaint alleges, in the language of the Act itself, that defendant has engaged in discriminatory practices, and is not subject to dismissal under this test.

2. With respect to the Motion for More Definite Statement, the plaintiff has provided sufficient notice to the defendants of the Government's claims to enable them to frame a responsive pleading. The Complaint, paraphrasing the language of the statute itself, meets the requirements of the Federal Rules of Civil Procedure and is not subject to a motion for more definite statement. See, e.g. United States v. Bob Lawrence Realty, Inc., 313 F. Supp. 870, 873 (N.D. Ga. 1970). The Federal Rules provide ample opportunity for the defendants to discover the facts of plaintiff's case following joinder of issue.

3. Defendants' counterclaim fails to state a claim upon which relief can be granted. No suit may be brought against the United States, as sovereign, without specific statutory consent, and the United States has not consented to suits of this nature. United States v. Northside Realty Associates, 324 F. Supp. 287 (N.D. Ga. 1971). 42 U.S.C. 2680 bars suits against the United States for libel, slander, or abuse of process. Accordingly, IT IS ORDERED that (1) defendants' Motion to Dismiss and Motion for More Definite Statement be and they are hereby denied, and (2) defendants' counterclaim be and it is hereby dismissed with prejudice.

_____, 1974

United States District Judge