



**Division of
Human Rights**

**NEW YORK STATE
DIVISION OF HUMAN RIGHTS**

**NEW YORK STATE DIVISION
OF HUMAN RIGHTS**

on the Complaint of

AMY LYNN GAGLIANO,

Complainant,

v.

**EL AGAVE MEXICAN GRILL, INC., DBA AGAVE
MEXICAN GRILL, ALFREDO RAMIREZ,
OWNER,**

Respondents.

**NOTICE AND
FINAL ORDER**

Case No. 10162624

Federal Charge No. 16GB303713

PLEASE TAKE NOTICE that the attached is a true copy of the Recommended Findings of Fact, Opinion and Decision, and Order (“Recommended Order”), issued on August 24, 2015, by Michael T. Groben, an Administrative Law Judge of the New York State Division of Human Rights (“Division”). An opportunity was given to all parties to object to the Recommended Order, and all Objections received have been reviewed.

PLEASE BE ADVISED THAT, UPON REVIEW, THE RECOMMENDED ORDER IS HEREBY ADOPTED AND ISSUED BY THE HONORABLE HELEN DIANE FOSTER, COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (“ORDER”). In accordance with the Division's Rules of Practice, a copy of this Order has been filed in the offices maintained by the Division at One

Fordham Plaza, 4th Floor, Bronx, New York 10458. The Order may be inspected by any member of the public during the regular office hours of the Division.

PLEASE TAKE FURTHER NOTICE that any party to this proceeding may appeal this Order to the Supreme Court in the County wherein the unlawful discriminatory practice that is the subject of the Order occurred, or wherein any person required in the Order to cease and desist from an unlawful discriminatory practice, or to take other affirmative action, resides or transacts business, by filing with such Supreme Court of the State a Petition and Notice of Petition, within sixty (60) days after service of this Order. A copy of the Petition and Notice of Petition must also be served on all parties, including the General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. Please do not file the original Notice or Petition with the Division.

ADOPTED, ISSUED, AND ORDERED.

DATED: **MAR 29 2016**
Bronx, New York


HELEN DIANE FOSTER
COMMISSIONER



ANDREW M. CUOMO
GOVERNOR

**NEW YORK STATE
DIVISION OF HUMAN RIGHTS**

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on the Complaint of

AMY LYNN GAGLIANO,

Complainant,

v.

**EL AGAVE MEXICAN GRILL, INC., dba
AGAVE MEXICAN GRILL, ALFREDO
RAMIREZ, OWNER,**

Respondents.

**RECOMMENDED FINDINGS OF
FACT, OPINION AND DECISION,
AND ORDER**

Case No. **10162624**

SUMMARY

Complainant alleges that Respondents unlawfully discriminated against her in employment as a pregnant female. Respondents deny the charges. Complainant has sustained her burden of proof. Damages are awarded, and a civil fine and penalty is assessed against Respondents.

PROCEEDINGS IN THE CASE

On June 12, 2013, Complainant filed a verified complaint with the New York State Division of Human Rights (“Division”), charging Respondent Agave Mexican Grill with unlawful discriminatory practices relating to employment in violation of N.Y. Exec. Law, art. 15 (“Human Rights Law”).

On December 5, 2013, the caption of the complaint was amended to include Alfredo Ramirez as a Respondent.

After investigation, the Division found that it had jurisdiction over the complaint and that probable cause existed to believe that Respondents had engaged in unlawful discriminatory practices. The Division thereupon referred the case to public hearing.

After due notice, the case came on for hearing before Michael T. Groben, an Administrative Law Judge (“ALJ”) of the Division. A public hearing session was held on September 3, 2014.

Complainant and Respondents appeared at the hearing. The Division was represented by Senior Attorney Neil L. Zions, Esq. Respondents did not retain counsel. Respondent Alfredo Ramirez appeared for Respondents.

The caption is hereby amended to reflect the corporate Respondent’s true name, El Agave Mexican Grill, Inc. (Tr. 101-02; Complainant’s Exhibit 3)

By letter dated February 18, 2015, ALJ Groben reopened the record for additional testimony and evidence regarding Complainant’s ability to work and her attempts to obtain a job after her employment was terminated by Respondents.

The second public hearing session was held on April 24, 2015. Complainant and Respondents appeared at the hearing. The Division was represented by Senior Attorney Neil L. Zions, Esq. Respondents did not retain counsel. Respondent Alfredo Ramirez appeared for Respondents.

At the hearing, Division counsel requested that the corporate Respondent’s name be amended to include two other corporations, El Agave Mexican Grill II Inc., and El Agave

Mexican Grill III Inc., and the presiding ALJ granted that application. (Tr. 129-34) Upon further review of the record, that ruling is reconsidered, and the application is denied.

Complainant's verified complaint included "marital status" and "race/color" as bases of discrimination. (ALJ Exhibit 2) Complainant presented no evidence of these allegations at the public hearing.

FINDINGS OF FACT

1. Respondent Alfredo Ramirez ("Ramirez") is the owner of corporate Respondent El Agave Mexican Grill, Inc., (the "restaurant") a Mexican restaurant located on West Henrietta Road, Rochester, New York. (Tr. 101-02, 105, 109; Complainant's Exhibit 3, ALJ Exhibit 2) The caption is hereby amended to reflect the corporate Respondent's true name, El Agave Mexican Grill, Inc.

2. In late March 2013, Complainant responded to Respondents' advertisement for "wait staff." (Tr. 19-20)

3. In early April 2013, Complainant was interviewed by Irena Otchych, one of Respondents' managers. Complainant was hired on April 9, 2013. (Tr. 20-21, 24, 45, 61-63)

4. At the time of her interview, Complainant was "visibly pregnant." (Tr. 32, 44-45)

5. When Complainant was hired, Ramirez was aware that she was pregnant. (Tr. 64, 77, 94)

6. Complainant underwent a course of training for her position as a waitress at the restaurant. (Tr. 21-22)

7. When she began training, Complainant met Ramirez and Manuel Marquez, one of Respondents' two cooks. (Tr. 21-22, 109)

8. Complainant's duties included waiting on tables, handling payment and cleaning the dining room. (Tr. 22-23)
9. Complainant was considered a good employee. (Tr. 24, 63, 94, 95)
10. Complainant was paid five dollars per hour by Respondents, plus tips. She earned \$15-\$20 per hour in total, for an average of \$17.50 per hour. (Tr. 23, 36)
11. Complainant worked an average of 17 hours per week. (Tr. 23-24, 36)
12. Respondents maintained a work schedule for their employees which was posted at the restaurant. Entries for Complainant on the schedule were listed under the name "Amy." (Tr. 65-68, 75-77; Respondent's Exhibit 1)¹
13. Complainant was scheduled to work Tuesday through Friday each week. (Tr. 47)
14. Complainant worked 5:00 p.m. to 9:30 p.m. on Tuesdays, and 12:00 p.m. to 5:00 p.m. on Wednesdays, Thursdays and Fridays. (Tr. 90-91; Respondent's Exhibit 1 [p. 2])
15. In early May 2013, Complainant developed bronchitis. (Tr. 25)
16. Complainant was normally "on call" for work on Saturday and Sunday. Complainant notified Ramirez that she would not be available "on call" for May 12, 2013. (Tr. 46-47) I take official notice of the fact that May 12, 2013, was a Sunday.
17. On Monday, May 13, 2013, Complainant contacted Ramirez via text message to advise that she was sick and would not be in for work the next day. (Tr. 47-48, 52-54; Complainant's Exhibit 2 [p. 8])

¹ Respondent's Exhibit 1 lists the employee schedules in reverse chronological order, i.e., the third page of the exhibit is the schedule for the end of April through the beginning of May, 2013, and the second page is the schedule for May 5 through May 25, 2013. (Tr. 70-72)

18. The next day, Tuesday, May 14, 2013, Complainant and Ramirez corresponded further by text message, and Ramirez advised Complainant that he had found another employee to work Complainant's shift that evening. (Tr. 48, 54-55; Complainant's Exhibit 2 [p. 9])

19. On Wednesday, May 15, 2013, Complainant again texted Ramirez, advising that she was sick and would not be in that day. (Tr. 54; Complainant's Exhibit 2 [p. 10])

20. On Thursday, May 16, 2013, Complainant again texted Ramirez, stating that she was sick and would not be in that day, but would return to work the next day. (Tr. 49-50, 54-55, 74-76; Complainant's Exhibit 2 [p. 10], Respondent's Exhibit 1 [p. 2])

21. On Friday, May 17, 2013, Complainant returned to the restaurant, ready to work her scheduled shift. (Tr. 16-17, 25-28, 49; ALJ Exhibit 2 [p. 9, ¶ 2])

22. Respondent's posted schedule showed that Complainant was scheduled to work that day. (Tr. 88-89, 115; Respondent's Exhibit 1 [p. 2])

23. Ramirez appeared "confused" that Complainant had showed up for work and advised her that someone else had been assigned to work her shift for that day. Complainant agreed to go home instead of working, and advised Ramirez that she would return the following week. (Tr. 28, 79, 82-84, 114-15)

24. On May 21, 2013, Complainant arrived at the restaurant for her scheduled 5:00 p.m. to 9:30 p.m. shift. (Tr. 28-29, 50-51, 115-16; Respondent's Exhibit 1 [p. 2])

25. Respondent's posted schedule showed that Complainant was scheduled to work May 21 through 24, 2013. (Tr. 87-88; Respondent's Exhibit 1 [p. 2])

26. When Complainant arrived at the restaurant, she met Corey Humphrey ("Humphrey"), who told her that she would not be allowed to work that day. This was the first time Complainant met Humphrey. (Tr. 29)

27. Ramirez testified that as of May 21, 2013, Humphrey was merely lending his assistance to the restaurant as a waiter, that he had no management duties and no authority to schedule employees, and that he was not even hired as an employee of the restaurant until several weeks later, in June 2013. (Tr. 95-98)

28. Victoria Scott (“Scott”), a human rights specialist employed by the Division, conducted the Division’s investigation of the instant complaint. During the course of that investigation, she held a conference with Complainant and Ramirez. (Tr. 123-25) Scott testified at the public hearing regarding her conference with Complainant and Ramirez.

29. During that conference, Ramirez admitted that Humphrey was hired as the restaurant manager while Complainant was employed there, and that Humphrey was responsible for scheduling employees, including Complainant. (Tr. 125-28)

30. On May 21, 2013, Humphrey and Ramirez told Complainant that Humphrey was the new manager, and that Complainant would not be working that day but would change over to the “morning shift” in the future. Ramirez also said that he would call Complainant the next day to discuss her new schedule. (Tr. 29-33, 43-44, 89-90, 92, 116-17)

31. During their May 21, 2013, conversation, Ramirez also told Complainant that “the owner” of the restaurant, not Ramirez, had hired Humphrey. Complainant was not aware until after she filed her Division complaint that Ramirez was the owner of the restaurant. (Tr. 31-33, 36-37)

32. Because Ramirez did not call Complainant the next day, she attempted to call Ramirez, either through his cell phone or the restaurant telephone, on May 22, May 23, May 24, May 28, and May 29, 2013, in order to receive her new schedule. Complainant’s calls were not returned. (Tr. 33-34, 55, 117-20; Complainant’s Exhibit 2 [p. 11])

33. In early June, 2013, Complainant was finally able to speak to Ramirez by telephone. He informed Complainant that Humphrey was in charge of the schedule, and that Humphrey did not want to put Complainant on the schedule because of her pregnancy. When Complainant protested, Ramirez agreed to have Humphrey call her back regarding the schedule. (Tr. 34-35)

34. Humphrey called Complainant a few minutes later and stated that he had “no room” for her on the schedule and that he had hired another waitress for Complainant’s position. When Complainant asked him why he had hired a waitress to replace her, Humphrey laughed and replied that he didn’t “have to discuss this with” Complainant. Humphrey repeated that there was “no room” for Complainant, and the conversation ended. (Tr. 35, 43-44)

35. Respondents never put Complainant back on the schedule. (Tr. 35-36)

36. Complainant’s last day of work was May 8, 2013. (Tr. 63)

37. Complainant felt “angry”, “ashamed” and “confused” when Respondents refused to schedule her for work. (Tr. 36-37)

38. Complainant began to look for another job immediately after her telephone conversation with Humphrey in early June, 2013, when she realized that Respondents would not continue her employment. (Tr. 129-30)

39. Complainant had difficulty finding work, and had financial difficulties. (Tr. 37-38, 42-43)

40. In early October 2013, Complainant began a work-study assignment at Monroe Community College, for which she was paid \$7.50 per hour, for a total of \$730.44 through the end of 2013. (Tr. 38-39, 131; Complainant’s Exhibit 1)

41. As of May 21, 2013, Complainant was several months pregnant. She gave birth on October 17, 2013. (Tr. 32, 44, 129-30)

42. Complainant was able to work again after she gave birth. Complainant reported to work at her Monroe Community College job on Saturday, October 26, 2013. (Tr. 130-31)²

43. Complainant's average hourly earnings from Respondents of \$17.50 per hour times 17 hours per week equals \$297.50 per week. Complainant earned approximately \$74.37 per day.

44. During the 21 weeks and two days between May 21, 2013 and October 16, 2013, Complainant would have earned \$297.50 per week times 21 equals \$6,247.50, plus \$148.75 for the two days, for a total of \$6,396.25.

45. In or about mid-November 2013, Complainant was hired as a health aide for Comforcare Senior Services. She earned \$9.85 per hour for about 10 hours per week, for a total of \$98.50 per week. (Tr. 40-41)

46. Complainant resigned that position in March 2014. Because Complainant did not provide any proof that she worked at Comforcare during March, I conclude that she worked at Comforcare between mid-November and the end of February, 2014, for a total of 15 weeks. During that period, Complainant earned \$98.50 each week for 15 weeks, for a total of \$1,477.50. (Tr. 41-42) Complainant did not submit any proof that she looked for a job after resigning her position at Comforcare.

47. During the 18 weeks from October 26, 2013, (the day she was able to resume work) to the end of February, 2014, Complainant would have earned \$297.50 per week from Respondents, for a total of \$5,355.

48. The amount Complainant would have earned at Respondents' restaurant but for her termination is \$6,396.25 plus \$5,355, for a total of \$11,751.25.

² Complainant testified that she gave birth on "Saturday, October 17" and returned to work on a Saturday, after taking about one week off from work. (Tr. 131) I take official recognition of the fact that October 17, 2013, was a Thursday, not a Saturday.

49. Subtracting \$730.44 (Complainant's earnings from Monroe Community College), and \$1,477.50 (Complainant's earnings from Comforcare), from \$11,751.25 leaves \$9,543.31.

50. Ramirez was listed as agent for service of process on a corporate certificate filed June 5, 2013, with the New York State Department of State for an entity to be known as "El Agave Mexican Grill II Inc." ("Agave Grill II"). (Tr. 103-04; Complainant's Exhibit 4)

51. Shortly after that corporation was formed, Ramirez sold his interest in Agave Grill II. (Tr. 104-08)

52. Agave Grill II is located at 725 Pittsford-Victor Rd., Pittsford, New York. One of the employees who formerly worked at the Respondents' restaurant, Manuel Marquez, is now employed at Agave Grill II. (Tr. 105, 108, 109-10)

53. Ramirez was also listed as agent for service of process on a corporate certificate filed June 24, 2013, with the New York State Department of State, for an entity to be known as "El Agave Mexican Grill III Inc." ("Agave Grill III"). The Agave Grill III restaurant never opened. (Tr. 106-08; Complainant's Exhibit 5)

54. Respondent El Agave Mexican Grill, Inc., closed in March 2014. (Tr. 4-5)

55. I find that Complainant did not establish a sufficient relationship between Respondents and Agave Grill II or Agave Grill III to justify amending the verified complaint to include these entities as Respondent parties.

56. Complainant's verified complaint included "marital status" and "race/color" as bases of discrimination. (ALJ Exhibit 2) Complainant presented no evidence of these allegations at the public hearing.

OPINION AND DECISION

Amendment to the Complaint

The Division sought to amend the corporate Respondent's name to include two other corporations. I find that the Division did not establish a sufficient relationship between Respondents and Agave Grill II or Agave Grill III to justify amending the verified complaint to include these entities as respondent parties.

At the time of the public hearing, the corporate Respondent El Agave Mexican Grill, Inc., had ceased operation. The general rule in New York is that a corporation which acquires the assets of another is not liable for the liabilities of the predecessor unless: (1) it expressly or impliedly assumed the predecessor's tort liability; (2) there was a consolidation or merger of seller and purchaser; (3) the purchasing corporation was a mere continuation of the selling corporation; or (4) the transaction is entered into fraudulently to escape such obligations. *See, Buja v. KCI Koncranes International PLC*, 12 Misc.3d 859, 862, 815 N.Y.S.2d 412, 414 (2006), citing, *Schumacher v. Richards Shear Co.*, 59 N.Y.2d 239, 245, 464 N.Y.S.2d 37 (1987).

The only connections established between Respondents and Agave Grill II were that the name of individual Respondent Ramirez appeared on Agave Grill II's certificate of incorporation, that Ramirez acknowledged starting the business, and that a cook formerly employed by the corporate Respondent at the restaurant was subsequently employed at Agave Grill II. Ramirez testified at the public hearing that he had sold Agave Grill II, and Complainant provided no evidence in rebuttal. Ramirez's name also appeared on the certificate of incorporation for Agave Grill III. However, Agave Grill III was never in operation. Under these circumstances, Complainant has not produced proof of a sufficient connection between Respondents and either Agave Grill II or Agave Grill III to find that the latter two corporations

were successors to the corporate Respondent. For the reasons set forth above, Complainant's motion is reconsidered and denied.

Marital Status and Race/Color Discrimination

Complainant's verified complaint included "marital status" and "race/color" as bases of discrimination. Complainant presented no evidence of these allegations at the public hearing.

Sex Discrimination

It is unlawful for an employer to discriminate against an employee on the basis of sex. N.Y. Exec. Law, art. 15 ("Human Rights Law") § 296.1(a). Complainant has the burden of establishing a prima facie case by showing that she is a member of a protected group, that she was qualified for the position she held, that she suffered an adverse employment action, and that Respondents' actions occurred under circumstances giving rise to an inference of discrimination. Once a prima facie case is established, the burden of production shifts to Respondents to rebut the presumption of unlawful discrimination by clearly articulating legitimate, nondiscriminatory reasons for their employment decision. The burden then shifts to Complainant to show that Respondents' proffered explanations are a pretext for unlawful discrimination. *Ferrante v. Am. Lung Ass'n*, 90 N.Y.2d 623, 629-30, 665 N.Y.S.2d 25, 29 (1997).

As a pregnant female, Complainant is a member of a protected class. *Rainer N. Mittl, Ophthalmologist, P.C. v. New York State Div. of Human Rights*, 100 N.Y.2d 326, 330, 763 N.Y.S.2d 518, 520 (2003). Complainant's pregnancy was known to Respondents. Complainant was qualified for her job as a waitress. Complainant lost her position when Respondents' newly appointed manager, Humphrey, took her off the schedule and refused to reinstate her because of her pregnancy. Complainant appealed to Ramirez to restore her to the schedule, to no avail. Instead, Ramirez deceived Complainant regarding his ownership and authority regarding the

corporate Respondent. Complainant has established a prima facie case of unlawful sex discrimination.

Respondents failed to proffer legitimate, nondiscriminatory reasons for their employment decision. Respondents claimed that Humphrey had no authority to make employment decisions for Respondents, a claim which was belied by Ramirez's admissions against interest to the Division investigator, a disinterested third party. Complainant's complaint is sustained.

Damages

Respondents refused to schedule Complainant for work, effectively ending her employment. As a result of Respondents' refusal to schedule Complainant for work, Complainant lost wages in the sum of \$6,396.25 between May 21, 2013 and October 16, 2013, and \$5,355 between October 26, 2013 and the end of February 2014, for total lost wages of \$11,751.25. Because Complainant resigned her new job at the end of February 2014, and submitted no proof that she sought to mitigate her back pay damages thereafter, the back pay award ends at the end of February 2014. Complainant is entitled to an award of back pay, minus the amounts she earned at other employment during the period in question. *Pioneer Group v. State Div. of Human Rights*, 174 A.D.2d 1041, 572 N.Y.S.2d 207 (4th Dept. 1991). Complainant's earnings of \$730.44 and \$1,477.50 during the period in question are subtracted from her lost wages of \$11,751.25, for a total of \$9,543.31.

Complainant is also entitled to an award for mental anguish and humiliation. A complainant is entitled to recover compensatory damages for mental anguish caused by a respondent's unlawful conduct. In considering an award for compensatory damages for mental anguish, the Division must be especially careful to ensure that the award is reasonably related to the wrongdoing, supported in the record, and comparable to awards for similar injuries. *State*

Div. of Human Rights v. Muia, 176 A.D.2d 1142, 1144, 575 N.Y.S.2d 957, 960 (3d Dept. 1991).

Because of the "strong antidiscrimination policy" of the Human Rights Law, a complainant seeking an award for pain and suffering "need not produce the quantum and quality of evidence to prove compensatory damages he would have had to produce under an analogous provision." *Batavia Lodge v. New York State Div. of Human Rights*, 35 N.Y.2d 143, 147, 359 N.Y.S.2d 25, 28 (1974). Indeed, "[m]ental injury may be proved by the complainant's own testimony, corroborated by reference to the circumstances of the alleged misconduct." *New York City Transit Authority v. State Div. of Human Rights (Nash)*, 78 N.Y.2d 207, 216, 573 N.Y.S.2d 49, 54 (1991). The severity, frequency and duration of the conduct may be considered in fashioning an appropriate award. *New York State Department of Correctional Services v. State Div. of Human Rights*, 225 A.D.2d 856, 859, 638 N.Y.S.2d 827, 830 (3d Dept. 1996).

Complainant was "angry," "ashamed" and "confused" when Respondents refused to schedule her for work. She attempted to contact Respondents over a period of several weeks, and was either repeatedly ignored or rebuffed. Complainant had difficulty finding work both before and after the birth of her child, and had financial problems.

Therefore, an award of \$2,500.00 for emotional distress is appropriate and would effectuate the purposes of the Human Rights Law. *Goffe v. Alterra Healthcare Corp.*, SDHR 10113568 (April 5, 2010) (\$2,500 "nominal damages" for mental anguish based on inference that some damage was incurred by violation of the Human Rights Law); *Sevilla v. Gottlieb*, SDHR 10119299 (April 24, 2009) (\$2,500 award based on Complainant's testimony that she "felt badly," "hurt" and "disrespected").

Civil Fines and Penalties

Pursuant to Human Rights Law § 297, the Division may assess civil fines and penalties.

The factors that determine the appropriate amount of a civil fine and penalty are the goal of deterrence; the nature and circumstances of the violation; the degree of respondent's culpability; the relevant history of respondent's actions; respondent's financial resources; and other matters as justice may require.

In the instant case, Respondents' newly hired manager took Complainant off the work schedule and refused to reinstate her, because of her pregnancy. Complainant appealed to Ramirez, who deflected her pleas by claiming that he was not the person responsible for scheduling employees. Respondents ignored Complainant's repeated attempts to contact them so that she could be restored to the work schedule. There was no proof in the record regarding Respondents' financial resources, other than the fact that Respondent El Agave Mexican Grill, Inc., has ceased doing business. Under these circumstances, a civil fine of \$5,000.00 will be appropriate to deter Respondents from future discriminatory behavior.

ORDER

On the basis of the foregoing Findings of Fact, Opinion and Decision, and pursuant to the provisions of the Human Rights Law and the Division's Rules of Practice, it is hereby

ORDERED, that Respondents, and their agents, representatives, employees, successors, and assigns, shall cease and desist from discriminatory practices; and

IT IS FURTHER ORDERED, that Respondents shall take the following action to effectuate the purposes of the Human Rights Law, and the findings and conclusions of this order:

1. Within 60 days of the date of the Commissioner's Order, Respondents shall pay to Complainant the sum of \$9,543.31 for lost wages. Interest shall accrue on this lost

wage amount at a rate of nine percent per annum from October 14, 2013, a reasonable intermediate date, until payment is made by Respondent.

2. Within 60 days of the date of the Commissioner's Order, Respondents shall pay to Complainant the sum of \$2,500.00, without any withholdings or deductions, as compensatory damages for the mental anguish and humiliation suffered by Complainant as a result of Respondents' unlawful discrimination. Interest shall accrue on the award at the rate of nine percent per annum from the date of the Commissioner's Order until payment is made by Respondents.
3. The aforesaid payments shall be made by Respondents in the form of two certified checks made payable to the order of Complainant, Amy Lynn Gagliano, and delivered by certified mail, return receipt requested, to Division Attorney Neil Zions, Esq., at Walter J Mahoney State Office Building, 65 Court Street, Suite 506, Buffalo, New York 14202.
4. Within 60 days of the date of the Commissioner's Order, Respondents shall pay the sum of \$5,000.00 as a civil fine and penalty, by certified check made out to the "State of New York" and delivered by certified mail, return receipt requested, to the offices of Caroline Downey, Esq., General Counsel of the Division of Human Rights, at One Fordham Plaza, 4th floor, Bronx, New York, 10458. Interest shall accrue at the rate of nine percent per annum on any amount paid after 60 days from the date of said Final Order until payment is made.

5. Respondents shall furnish written proof to the New York State Division of Human Rights, Compliance Unit, One Fordham Plaza, 4th floor, Bronx, New York 10458, of their compliance with the directives contained in this order.

DATED: August 24, 2015
Bronx, New York

A handwritten signature in black ink, appearing to read 'Michael T. Groben', with a large, stylized flourish at the end.

Michael T. Groben
Administrative Law Judge