



ANDREW M. CUOMO  
GOVERNOR

**NEW YORK STATE  
DIVISION OF HUMAN RIGHTS**

**NEW YORK STATE DIVISION  
OF HUMAN RIGHTS**

on the Complaint of

**WILBERT JONES,**

Complainant,

v.

**REFRIGERATED TRANSPORTATION  
SOLUTIONS, LLC D/B/A REFRIGERATED  
TRANSPORTATION SOLUTIONS, ALEX  
LOGVINSKY,,**

Respondents.

**NOTICE AND  
FINAL ORDER**

Case No. 10152706

Federal Charge No. 16GB201261

**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 February 21, 2013, by Martin Erazo, Jr., 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.

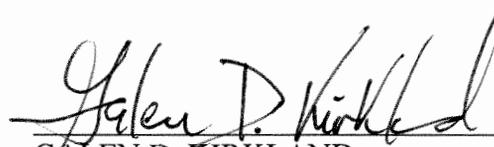
**PLEASE BE ADVISED THAT, UPON REVIEW, THE RECOMMENDED ORDER IS HEREBY ADOPTED AND ISSUED BY THE HONORABLE GALEN D. KIRKLAND, COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (“ORDER”).** In accordance with the Division's Rules of Practice, a copy of this Order has been 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: 4/24/2013  
Bronx, New York

  
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GALEN D. KIRKLAND  
COMMISSIONER



ANDREW M. CUOMO  
GOVERNOR

**NEW YORK STATE  
DIVISION OF HUMAN RIGHTS**

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**WILBERT JONES,**

Complainant,

v.

**REFRIGERATED TRANSPORTATION  
SOLUTIONS, LLC, d/b/a REFRIGERATED  
TRANSPORTATION SOLUTIONS;  
ALEX LOGVINSKY,**

Respondents.

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

Case No. **10152706**

**SUMMARY**

Respondents subjected Complainant to a racially hostile work environment and terminated his employment because of his race. Complainant is African American. Respondents are liable to Complainant for \$37,798 in economic losses and \$20,000 for pain and suffering. Respondents are also liable to the State of New York in the amount of \$55,000 in civil fines and penalties.

**PROCEEDINGS IN THE CASE**

On January 17, 2012, Complainant filed a verified complaint with the New York State Division of Human Rights ("Division"), charging Respondents with unlawful discriminatory practices relating to employment in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

On March 5, 2012, 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.

On June 21, 2012, Richard J. Van Coevering, Esq., (“Van Coevering”) an attorney with the Division’s Prosecutions Unit, amended the complaint, prior to hearing, to add the following parties as named Respondents: Refrigerated Transportation Solutions, Inc., Refrigerated Transportation Solutions, L.L.C., as successors-in-interest; Alex Logvinsky, individually. Van Coevering served the amendment on all parties. (ALJ Exhibit 3)

After due notice, the case came on for hearing before Martin Erazo, Jr., an Administrative Law Judge (“ALJ”) of the Division. A public hearing session was held on July 13, 2012.

Complainant and Van Coevering appeared at the hearing.

Respondents failed to appear before the Division to defend against the complaint. Respondents defaulted pursuant to 9 N.Y.C.R.R. §465.11(e). The hearing proceeded on the evidence in support of the complaint pursuant to 9 N.Y.C.R.R. §465.12(b) 3.

## **FINDINGS OF FACT**

### Parties

1. Complainant is African-American. (Tr. 20)
2. Complainant has a commercial driver’s license that allows him to drive a tractor-trailer truck. (Tr. 20)
3. Respondents are a commercial trucking business. (Tr. 20, 23-25)

## Respondents

4. The New York State Department of State (“NYS DOS”), Division of Corporations, reports that Refrigerated Transportation Solutions, Inc., (“Solutions Inc.”) incorporated on September 17, 2003 and dissolved on October 27, 2010. (ALJ Exhibit 5)

5. NYS DOS reports that Respondent Refrigerated Transportation Solutions, LLC. (“Solutions LLC”), incorporated on August 3, 2011. (ALJ Exhibit 4)

6. NYS DOS lists “Refrigerated Transportation Solutions, LLC” as an active corporation. (ALJ Exhibit 4)

7. Complainant testified that he worked for Refrigerated Transportation Solutions (“Solutions”). (Tr. 20-21)

8. Solutions and Solutions LLC, have the same addresses at 216 Middlesex Road, Rochester, New York 14610 and 180 South Avenue, Brockport, New York 14420. (ALJ Exhibit 3)

9. Solutions and Solutions LLC also share the same management, the same facility, and the same telephone number. (Tr. 11-13)

10. Refrigerated Transportation Solutions, LLC does business as Refrigerated Transportation Solutions. (ALJ Exhibit 3, Tr. 11-13)

11. Respondent Alex Logvinsky (“Logvinsky”) is the owner and operator of Solutions LLC. Logvinsky’s approval is required for all hiring, firing, and business decisions made by the company. (Tr. 14, 21-22)

12. The properly named Respondents are “REFRIGERATED TRANSPORTATION SOLUTIONS, LLC, d/b/a REFRIGERATED TRANSPORTATION SOLUTIONS; ALEX LOGVINSKY”

Notice

13. Complainant's January 17, 2012, verified complaint placed Logvinsky on notice that his personal actions were at issue. The verified complaint specifically charges that all of the unlawful discriminatory activity alleged by Complainant was personally performed by Logvinsky. (ALJ Exhibit 6, pages 6-7)

14. Respondents failed to respond to the Division's written requests for information and cooperation during its investigation. (ALJ 9, p.3)

15. In June 2012, Van Coevering made several unsuccessful attempts to contact Respondent representatives. When Van Coevering telephoned Respondents, he was given varying answers including that they were no longer in business and that there was no one in authority who could speak with him. Van Coevering's left messages when he called, but his calls were not returned. (Tr. 10-11)

16. On May 20 and June 15, 2012, the Division's Calendar unit mailed hearing letters to Respondents at 216 Middlesex Road, Rochester, New York 14610 and 180 South Avenue, Brockport, New York 14420, in advance of the formal hearing notices.<sup>1</sup> (ALJ Exhibits 1, 2)

17. On June 28, 2012, the Division's Calendar unit mailed formal hearing notices to Respondents at 216 Middlesex Road, Rochester, New York 14610 and 180 South Avenue, Brockport, New York 14420. (ALJ Exhibit 3)

18. The May 20 and June 15, 2012, hearing letters and the June 28, 2012 formal hearing notice were not returned to the Division by the United States Postal Service and are, therefore, presumed received by all parties.

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<sup>1</sup> The city of "Brockport" is incorrectly identified as "Rockport" throughout the transcript.

19. Respondents did not submit verified answers to the complaint. (Tr. 17)

20. I find the following facts: Respondents had notice of the verified complaint, notice of the amendments and notice of the public hearing. Respondents deliberately chose not to cooperate with the Division's investigation and not to appear at the public hearing.

#### Work Place Events

21. On December 19, 2011, Respondents hired Complainant as a tractor-trailer driver. (ALJ Exhibit 6, pages 6-7; Tr. 27-28)

22. Respondents told Complainant that he would receive his first paycheck on January 6, 2012. (Tr. 36-37)

23. Complainant gave contradictory testimony regarding his pay arrangement with Respondents. Complainant initially testified that Respondents' pay arrangement with its drivers was twenty percent of the cargo's value for both the outgoing and return portions of long distance road trips. (Tr. 25-26, 32)

24. However, based on Complainant's own testimony, the proof supports a much lower pay arrangement. Complainant expected to earn \$1100 to \$1500 per week, an average of \$1300 weekly. (Tr. 33-34)

25. Respondents provided their drivers with a company truck. (Tr. 28)

26. During the three-week period of Tuesday, December 20, 2011, to Friday, January 6, 2012, Complainant made two trips to the State of Florida, one trip to the state of New Jersey, three trips to Newburgh, New York. (Tr. 27-34)

27. On Friday, January 6, 2012, Complainant did not receive a paycheck. (ALJ Exhibit 6, pages 6-7; Tr. 37-38)

28. Complainant asked Logvinsky why he was not paid. (Tr. 38)

29. Logvinsky responded that Complainant had made a clerical error in his paperwork. There were two missing dates. (Tr. 38)
30. Complainant supplied Logvinsky with the missing information. Logvinsky responded that the paperwork was in order. (Tr. 38-39)
31. Logvinsky also instructed Complainant to deliver another cargo to Newburgh, New York that evening. (Tr. 38-39)
32. However, Logvinsky was seemingly distracted by other work activity and became dismissive of Complainant's continued request for payment by stating, "It should be fine," "I'm on the phone," and "just bear with me." (Tr. 38-39)
33. For two hours, Complainant waited outside Respondents' facility in Brockport for his pay and for Logvinsky's instructions about his new assignment. (Tr. 39)
34. Logvinsky went outside to speak with Complainant and instructed him to leave with the cargo to Newburgh, New York. Complainant responded, "I'm not going no where else – I'm not going nowhere else until you give me my check." (Tr. 39)
35. Logvinsky responded, "Listen here you fucking nigger, I'm not giving you shit." (ALJ Exhibit 6, pages 6-7; Tr. 39)
36. Logvinsky's brother ran up to Complainant and told Complainant, "get your ass off the property." (Tr. 41)
37. Logvinsky jumped into his pickup truck and chased Complainant off the property with the vehicle. (Tr. 41)
38. Complainant ran off Respondents' property into a wooded area in the city of Brockport and called the police. (Tr. 41)

39. The police allowed Complainant to return to Respondents' location so Complainant could retrieve his personal property from the truck formerly assigned to him. (ALJ Exhibit 6, pages 6-7; Tr. 41)

40. Respondents had thrown all of Complainant's personal property on the street. Several of Complainant's personal items were smashed including his television and a continuous positive airway pressure ("CPAP") machine that he used for his sleep apnea. (Tr. 42-43)

41. Complainant had no transportation home. He typically took Respondents' truck with him. (51-53)

42. Complainant reimbursed his godfather, Anthony Holmes, for a \$62 cab ride from the police station in Brockport to Rochester. (Tr. 47-48, 51)

43. On Monday, January 9, 2012, Complainant telephoned Logovinsky and asked for his earnings. (Tr. 43)

44. Logovinsky informed Complainant that he would give him a check by the afternoon of Tuesday, January 10, 2012, if provided with additional paperwork in Complainant's possession. (Tr. 43)

45. Although Complainant provided Logovinsky the additional paperwork, he was never paid. (Tr. 43-46)

#### Emotional Damages

46. Complainant felt angry and "pissed off" on January 6, 2012, when Logovinsky called him a "fucking nigger." (Tr. 50)

47. The January 6, 2012 confrontation also made Complainant feel "stressed," "nervous," "embarrassed," and "depressed." (Tr.51)

48. Complainant felt he was at a “disadvantage” because he was confronted by Logvinsky, Logvinsky’s brother, and Logvinsky’s use of a truck as a weapon. (Tr. 50)

49. Complainant felt desperate to leave as quickly as possible, obtain help, and avoid a confrontation that could potentially place him in jail. (Tr. 50)

50. Complainant felt “abandoned” since he found himself without transportation in the Brockport area. (Tr. 47-48, 51)

51. Complainant testified that as of the day of the public hearing, he remained sad and “depressed” about the events that took place on January 6, 2012. (Tr. 53)

#### Economic Damages

52. Complainant worked for Respondents for a period of three weeks, from Monday, December 19, 2011 to Friday, January 6, 2012. (ALJ Exhibit 6, pages 6-7; Tr. 27-34)

53. Complainant was not paid \$3900 (\$1300 x three weeks) for the time he worked from December 19, 2011 to January 6, 2012.

54. Complainant incurred \$36 in unpaid tolls: a Florida Turnpike toll of \$20 and a New York State Thruway toll of \$16. (Tr. 35-36)

55. Complainant spent \$62 in a cab ride from the police station in Brockport to Rochester. (Tr. 47-48, 51)

56. From January 6, 2012 to July 8, 2012, Complainant mitigated his damages by actively seeking employment. (Tr. 57-58)

57. If Complainant had remained employed with Respondents, Complainant would have earned \$33,800 between January 6, 2012 to July 8, 2012 (26 weeks x \$1300).

58. Complainant did not sustain economic losses beyond July 9, 2012. Complainant stopped working in the field of trucking. On July 9, 2012, Complainant began working in the engineering department, as a laborer, for the city of Buffalo, at a rate of \$17 an hour. (Tr. 54-56)

59. The City of Buffalo provided Complainant with more extensive benefits than Respondents, including a medical insurance and a retirement plan. (Tr. 55-56)

### **OPINION AND DECISION**

#### Amendments Prior to Hearing

The proof does not support naming Refrigerated Transportation Solutions, Inc. as a respondent. Solutions, Inc. was a business entity that existed and was dissolved prior to Complainant's employment. However, the verified complaint was properly amended to include Refrigerated Transportation Solutions, L.L.C., as a respondent. *See* 9 NYCRR § 465(b) and 9 NYCRR § 465(c). Nonetheless, Solutions LLC cannot be identified as a "successor in interest" since it currently exists as the actual respondent that operates as the trucking business. The proof supports that Solutions LLC is doing business as "Refrigerated Transportation Solutions."

The complaint was also amended to properly name Alex Logvinsky, individually, as an owner. The amendment conforms the pleadings to the proof. 9 NYCRR §465.12(f)14. Logvinsky is properly added as a Respondent per the relation back doctrine. There is no unfair surprise to Logvinsky as to claims of his individual liability. Logvinsky is the owner and is united in interest with the originally named Respondent, Refrigerated Transportation Solutions. Logvinsky was the Complainant's harasser. Complainant's verified complaint charged Logvinsky with all of the harassing behavior identified in the complaint. Logvinsky was clearly on notice that his personal conduct toward Complainant was the issue in this case. There is no

proof that Logvinsky suffered any prejudice in not having been originally named. *Rio Mar Restaurant, et.al. v. State Div. of Human Rights*, 270 A.D.2d 47, 704 N.Y.S. 230 (1<sup>st</sup> Dept. 2000)

### Hostile Work Environment

Human Rights Law §296.1(a), makes it an unlawful discriminatory practice for an employer “because of an individual’s ...race...to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.”

In order to sustain a claim of harassment based on race, Complainant must demonstrate that he was subjected to a work environment permeated with discriminatory intimidation, ridicule, and insult that was sufficiently severe or pervasive to alter the conditions of his employment and create an abusive working environment. The Division must examine the totality of the circumstances and the perception of both the victim and a reasonable person in making its determination. *Forrest v. Jewish Guild for the Blind*, 3 N.Y. 295, 786 N.Y.S.2d 382, 819 N.E.2d 998 (2004), *also see, Father Belle Community Ctr. v. N.Y. State Div. of Human Rights*, 221 A.D.2d 44, 50, 642 N.Y.S.2d 739, 744 (4<sup>th</sup> Dept. 1996), *lv. denied*, 89 N.Y.2d 809.

Logvinsky’s offensive actions occurred during one incident on January 6, 2012. A single incident, if sufficiently offensive, can form the basis of a claim of discrimination, such as was the case in *Imperial Diner v. State Human Rights Appeal Board*, 52 N.Y.2d 72,436 N.Y.S.2d 231 (1980).

On January 6, 2012, Logvinsky refused to pay Complainant three weeks of earnings. In addition, Logvinsky wanted Complainant to take additional driving assignments. When Complainant requested payment before taking more assignments, Logvinsky responded, “listen here you fucking nigger, I’m not giving you shit.” Logvinsky’s brother told Complainant to “get

[his] ass off the property.” Logvinsky behaved violently when he proceeded to chase Complainant off the property with his vehicle. Respondents removed Complainant’s belongings from his assigned truck and threw them on the street. Several of Complainants’ personal items were smashed. A reasonable person would find that the events that took place were sufficiently severe to create a hostile work environment based on race.

### Liability

Respondent Refrigerated Transportation Solutions, L.L.C. is strictly liable for the racially hostile environment created by its owner, Logvinsky. *Faragher v. Boca Raton*, 524 U.S. 775, 118 S.Ct. 2275 (1998); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 752, 118 S. Ct. 2257 (1988). In addition, Logvinsky is individually liable, as an owner, for his own unlawful discriminatory conduct. *Patrowich v. Chemical Bank*, 63 N.Y.2d 541, 473 N.E.3d 11, 493 N.Y.S. 659 (1984).

### Mental Anguish Damages

Complainant is entitled to recover compensatory damages caused by Respondents’ violation of the Human Rights Law. Human Rights Law § 297.4(c)(iii). The award of compensatory damages may be based solely on a complainant’s testimony. 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 Auth. v. N.Y. State Div. of Human Rights (Nash)*, 78 N.Y.2d 207, 216, 573 N.Y.S.2d 49, 54 (1991); *Cullen v. Nassau County Civil Service Commission*, 53 N.Y.2d 452, 442 N.Y.S.2d 470 (1981). The severity, frequency, and duration of the conduct may be considered in fashioning an appropriate award. *New York State Dep’t of Corr. Servs. v. N.Y. State Div. of Human Rights*, 225 A.D.2d 856, 859, 638 N.Y.S.2d 827, 830 (3d Dept. 1996). In considering an award of 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. *N.Y. State Div. of Human Rights v. Muia*, 176 A.D.2d 1142, 1144, 575 N.Y.S.2d 957, 960 (3d Dept. 1991).

Respondents' actions on January 6, 2012 had a markedly negative effect on Complainant. Logvinsky's racially offensive actions made him feel "stressed," "nervous," "embarrassed," and "depressed" when confronted by Logvinsky and Logvinsky's brother. Complainant felt helpless as Logvinsky chased him with a pickup truck. Complainant felt desperate to leave as quickly as possible, obtain help, and avoid a confrontation that could potentially place him in jail. Complainant also felt "abandoned" since he found himself without transportation in a wooded area. At public hearing, seven months after his dismissal, Complainant remained "depressed" about the events that took place on January 6, 2012.

Given Respondent's conduct, the degree and duration of Complainant's suffering, an award of \$20,000 for emotional distress is appropriate and would effectuate the purposes of the Human Rights Law of making Complainant whole. See *Grove Roofing Services, Inc. v. N.Y. State Div. of Human Rights (Carson)*, 89 A.D.3d 1405, 932 N.Y.S.2d 397 (4th Dept. 2011) (\$50,000 pain and suffering award based on Carson's emotional reaction to Respondent's racially hostile work environment over a period of time; Court upheld Commissioner's award); *N.Y. State Div. of Human Rights (Gollel) v. Village Plaza Family Restaurant, Inc.*, 59 A.D.3d 1038, 872 N.Y.S.2d 815 (4th Dept. 2009) (\$65,000 pain and suffering award based on Gollel's emotional reaction to owner's sexual harassment over a period of time; Court upheld Commissioner's award)

### Economic Damages

Complainant was dismissed on January 6, 2012. Respondents owe Complainant \$37,798 in economic losses reflecting \$3900 for three weeks in unpaid earnings; \$36 in unpaid tolls; a \$62 cab ride; and \$33,800 in lost earnings (\$1300 per week for 26 weeks). Complainant mitigated his lost wage damages by actively seeking work after his dismissal from Respondents' employment.

Complainant did not sustain economic losses beyond July 9, 2012. Complainant stopped working in the field of trucking. On July 9, 2012, Complainant began working in the engineering department, as a laborer, for the city of Buffalo, at a rate of \$17 an hour. The City of Buffalo provided Complainant with more extensive benefits than Respondents, including a medical insurance and a retirement plan.

Respondents are also liable to Complainant for predetermination interest on the back pay award at a rate of nine percent, per annum, from April 8, 2012, a reasonable intermediate date between January 6, 2012 and July 9, 2012, through the date of the Commissioner's Final Order. *Aurecchione v. New York State Division of Human Rights*, 98 N.Y.2d 21, 744 N.Y.S.2d 349 (2002). In addition, Respondents are liable to Complainant for interest on the economic loss award at a rate of nine percent, per annum, from the date of the Commissioner's Final Order until payment is made.

### Civil Fines and Penalties

A civil fine and penalty of \$55,000 is appropriate in this matter.

Human Rights Law § 297 (4)(c)(vi) directs the Division to assess civil fines and penalties, "in an amount not to exceed fifty thousand dollars, to be paid to the state by a respondent found to have committed an unlawful discriminatory act, or not to exceed one hundred thousand dollars

to be paid to the state by a respondent found to have committed an unlawful discriminatory act which is found to be willful, wanton or malicious.” Statutory directives require a civil fine and penalty of greater than \$50,000 for each case where a respondent’s actions were willful, wanton, and malicious.

The proof established that Respondents’ actions easily met the statutory thresholds of “willful, wanton or malicious” conduct. Logvinsky acted in a manner considered outrageous in a civil society; acted with deliberate indifference to the injury he could cause another; and acted with the purpose of harming another.

Furthermore, Human Rights Law § 297 (4)(e) requires that “any civil penalty imposed pursuant to this subdivision shall be separately stated, and shall be in addition to and not reduce or offset any other damages or payment imposed upon a respondent pursuant to this article.”

The additional 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; any relevant history of respondent’s actions; respondent’s financial resources; other matters as justice may require. *119-121 East 97<sup>th</sup> Street Corp, et. al., v. New York City Commission on Human Rights, et. al.*, 220 A.D.2d 79; 642 N.Y.S.2d 638 (1st Dept.1996)

The goal of deterrence; the nature and circumstances of the violation; and the degree of respondent’s culpability are particularly relevant in this matter. Respondent terminated Complainant’s employment because he is an African-American who was asking for pay he earned. Logvinsky wanted to continue his abuse of Complainant by having him perform additional work without pay. When Complainant refused to accept an additional work assignment without receipt of overdue earnings, Logvinsky responded by terminating Complainant’s employment in a vicious manner. Logvinsky called him a “nigger” and then

threatened violence by chasing Complainant with a vehicle. Complainant ran into a wooded area where he found himself alone. Complainant was able to retrieve his personal belongings only with police assistance. When Complainant returned to the work site, Respondents had thrown all of Complainant's belongings into the street. In addition to his behavior towards Complainant, Logvinsky has evaded the Division's lawful review of his actions by intentionally not participating in the Division investigation and hearing process.

There was no proof that Respondents were adjudged to have committed any previous similar violation of the Human Rights Law or incapable of paying any penalty.

### **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, their agents, representatives, employees, successors, and assigns, shall cease and desist from discriminating against any employee in the terms and conditions of employment; and it is further

ORDERED, that Respondents, their agents, representatives, employees, successors and assigns shall take the following affirmative action to effectuate the purposes of the Human Rights Law:

1. Within sixty days of the date of the Commissioner's Final Order, Respondents Refrigerated Transportation Solutions, L.L.C., and Alex Logvinsky, individually, shall pay to Complainant, Wilbert Jones, the sum of \$37,798 as damages for economic loss. Interest shall accrue on this award at the rate of nine percent per annum, from April 8, 2012, a reasonable intermediate date between January 6, 2012 and July 9, 2012, until the date payment is actually

made by Respondents.

2. Within sixty days of the date of the Commissioner's Final Order, Respondents Refrigerated Transportation Solutions, L.L.C., and Alex Logvinsky, individually, shall pay to Complainant, Wilbert Jones, the sum of \$20,000 as compensatory damages for mental anguish and humiliation Complainant suffered as a result of Respondents' unlawful discrimination against him. Interest shall accrue on this award at the rate of nine percent per annum, from the date of the Commissioner's Final Order until payment is actually made by Respondents.

3. The payments shall be made by Respondents Refrigerated Transportation Solutions, L.L.C., and Alex Logvinsky, individually, in the form of a certified check, made payable to the order of Wilbert Jones and delivered by certified mail, return receipt requested, to his address, 15 Humason Street, Buffalo, New York 14211. A copy of the certified check shall be provided to Caroline Downey, Esq., General Counsel of the Division, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

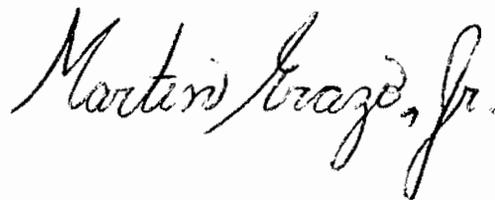
4. Within sixty days of the date of the Commissioner's Final Order, Respondents Refrigerated Transportation Solutions, L.L.C., and Alex Logvinsky, individually, shall pay to the State of New York the sum of \$55,000 as a civil fine and penalty for their violation of the Human Rights Law. Interest shall accrue on this award at the rate of nine percent per annum, from the date of the Commissioner's Final Order until payment is actually made by Respondents.

5. The payment of the civil fine and penalty shall be made by Respondents Refrigerated Transportation Solutions, L.L.C., and Alex Logvinsky, individually, in the form of a certified check, made payable to the order of the State of New York and delivered by certified mail, return receipt requested, to Caroline Downey, Esq., General Counsel of the Division, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

6. Within sixty days of the Final Order, Respondents Refrigerated Transportation Solutions, L.L.C., and Alex Logvinsky, individually, shall establish a reporting mechanism for all employees in the event of discriminatory behavior or treatment. Respondents shall also provide a training session in the prevention of unlawful discrimination, and racial harassment in particular, in accordance with the Human Rights Law. Training shall be provided to all Respondents' employees in New York State, including Alex Logvinsky. A copy of the reporting mechanism and proof of the training session shall be provided to Caroline Downey, Esq., General Counsel of the New York State Division of Human Rights, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

7. Respondents Refrigerated Transportation Solutions, L.L.C., and Alex Logvinsky, individually, shall cooperate with the representatives of the Division during any investigation into compliance with the directives contained in this Order.

DATED: February 21, 2013  
Buffalo, New York

A handwritten signature in black ink that reads "Martin Erazo, Jr." in a cursive script.

Martin Erazo, Jr.  
Administrative Law Judge