



**Division of  
Human Rights**

**NEW YORK STATE  
DIVISION OF HUMAN RIGHTS**

**NEW YORK STATE DIVISION  
OF HUMAN RIGHTS**

on the Complaint of

**DONNA L. LOUGHREN,**

Complainant,

v.

**IRMIN A. MODY REAL ESTATE, IRMIN A.  
MODY,**

Respondents.

**NOTICE AND  
FINAL ORDER**

Case No. 10199569

**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 July 7, 2021, 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 LICHA M. NYIENDO, COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (“ORDER”) WITH THE FOLLOWING AMENDMENTS:**

- Effective October 11, 2019, Human Rights Law § 296.1(h) amended the definition of

harassment and the standard applied to such claims. “Harassment is an unlawful discriminatory practice when it subjects an individual to inferior terms, conditions or privileges of employment because of the individual’s membership in one or more . . . protected categories.” Id. This is so “regardless of whether such harassment would be considered severe or pervasive under precedent applied to harassment claims.” Id. However, because the allegations which gave rise to the harassment claims in the instant complaint were purported to have occurred prior to the amended law’s effective date, it was appropriate to analyze the allegations under the former severe or pervasive standard.

- Respondents’ motion for attorney’s fees is denied. Effective October 11, 2019, Human Rights Law § 297.10 permits the Commissioner to award attorney’s fees to the prevailing party in employment cases based on sex. For fees to be awarded to a prevailing respondent, Respondent must make a motion for fees and demonstrate that the proceeding was frivolous. A proceeding is frivolous if:

(a) the action or proceeding was commenced, used or continued in bad faith, solely to delay or prolong the resolution of the litigation or to harass or maliciously injure another; or

(b) the action or proceeding was commenced or continued in bad faith without any reasonable basis and could not be supported by a good faith argument for an extension, modification or reversal of existing law. If the action or proceeding was promptly discontinued when the party or attorney learned or should have learned that the action or proceeding lacked such a reasonable basis, the court may find that the party or the attorney did not act in bad faith.

*Id.*

It is noted that the instant complaint was filed prior to the effective date of the statute permitting fees. In any event, Respondents have failed to show that the

proceeding was commenced, used or continued in bad faith. Accordingly, the fee request is denied.

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: **September 10, 2021**  
Bronx, New York



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LICHA M. NYIENDO  
COMMISSIONER



**Division of  
Human Rights**

**NEW YORK STATE  
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on the Complaint of

**DONNA L. LOUGHREN,**

Complainant,

v.

**IRMIN A. MODY REAL ESTATE, IRMIN A.  
MODY,**

Respondents.

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

Case No. **10199569**

**SUMMARY**

Complainant alleges that Respondents discriminated against her in employment because of her sex and retaliated against her for opposing discrimination by terminating her employment and her real estate license. Respondents deny the allegations. Complainant has failed to sustain her burden of proof, and the complaint is dismissed.

**PROCEEDINGS IN THE CASE**

On February 8, 2019, 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 April 17, 2019, Complainant filed an amendment to her complaint, setting forth additional allegations of unlawful discrimination.

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. Public hearing sessions were held on December 2 and 3, 2020.

Complainant and Respondents appeared at the hearing. The Division was represented by Senior Attorney Catherine Ostrowski-Martin, Esq. Respondents were represented by Conklin & Gerhart (Mark L. Rappaport, Esq., of counsel).

Permission to file post-hearing briefs was granted. Respondents filed a post hearing brief.

### **FINDINGS OF FACT**

1. Complainant is female. (Tr. 27-28)
2. New York Real Property Law art. 12-A, entitled “Real Estate Brokers and Real Estate Salesmen” provides for the licensing of real estate brokers and salespersons and the terms and conditions of such licenses. Licenses are issued by the New York State Department of State, Division of Licensing Services (“Division of Licensing Services”). (Respondents’ Exhibit 6) N.Y. Real Property Law §§440-443-a.

3. Respondent Irmin A. Mody (“Respondent Mody”), a licensed real estate broker, has operated Respondent Irmin A. Mody Real Estate (“Respondent”) in Norwich, New York for over 50 years.<sup>1</sup> (Tr. 28, 237-38, 278)

**Complainant’s Association with Respondents 1998-2006**

4. In 1998, Complainant began work for Respondents as a secretary. Within a few months, Complainant received her New York State real estate sales agent license and began working as an agent in association with Respondents.<sup>2</sup> (Tr. 28, 31-32, 125-26, 243-44)

5. Complainant sold and listed residential real estate for sale in association with Respondents. (Tr. 28-29)

6. Abigail Valashinas was the office manager for Respondents between 2003 and 2006. Valashinas was unable to proffer any relevant testimony regarding events involving Complainant and Respondents which occurred after 2006. (Tr. 104, 106, 180-83)

7. Sharon Reihl was employed by Respondents between 2001 and 2004. She was proffered by the Division as a witness to events occurring between 2001 and 2004. Reihl was unable to proffer any relevant testimony regarding events involving Complainant and Respondents which occurred after 2004. (Tr. 103-05, 184-88)

8. Complainant testified at the public hearing that starting “right away” during her association with Respondents between 1998 and 2006, Respondent Mody sexually harassed her “almost every day” she was the office, and that due to this, and disputes over commissions, she terminated her association with Respondents in 2006. (Tr. 32-36, 164)

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<sup>1</sup> Respondent Irmin A. Mody is referred to on two occasions in the transcript as "ermine." (Tr. 157, 318)

<sup>2</sup> Licensed real estate salespersons are commonly referred to as real estate "agents." (Tr. 259)

9. Complainant ceased her association with Respondents in 2006 and did not work with Respondents between 2006 and 2012. (Tr. 32, 36, 84, 160, 244)

10. Between 1998 and 2006, Complainant's daughters, granddaughter, and sister worked in Respondents' office. Complainant never attempted to discourage any of them from working for Respondent Mody because of his alleged abusive behavior. (Tr. 93-96, 124-25, 163-66)

**Complainant resumes her association with Respondents in 2012**

11. In 2012, Complainant again began to work at Respondents' office as a licensed sales agent, listing and selling residential property. (Tr. 37-39)

12. Complainant chose to resume work at Respondents although there were other real estate agencies in the area to which she could have applied. (Tr. 84-88, 91)

13. Jacqueline Smith ("Smith") has been employed by Respondents as a secretary for approximately seven years. Smith is not currently working for Respondents due to the COVID-19 virus. (Tr. 65, 238, 278, 280, 318, 345)

14. Smith worked with Complainant between 2014 and 2018. (Tr. 321)

15. Smith's daughter is married to Respondent Mody's son, Thomas Mody. (Tr. 65, 279-80, 331)

**Complainant's Employment Status**

16. When working for Respondents, Smith was required to be in the office from 9:00 a.m. until 3:00 p.m., four to five days a week. (Tr. 318-19, 325, 330)

17. In order to work as a sales agent, Complainant was required to pay a license fee to the Division of Licensing Services, and dues to the Otsego Delaware Board of Realtors Multiple Listing Service ("MLS"). (Tr. 29-31, 256-57)

18. Complainant paid her own MLS dues and the fee for her real estate license. (Tr. 127)

19. Licenses for real estate sales agents, consisting of a license and a “pocket card,” are sent directly to the office of the broker with which that agent is associated. The license is retained on file at the office of the broker, and the agent receives the pocket card to use as identification. (Tr. 259)

20. Complainant was issued a license as a real estate salesperson, or agent, by the Division of Licensing Services, effective January 6, 2017, to January 5, 2019. The license stated that Complainant was affiliated with Respondent Mody. (Tr. 132-33; Respondents’ Exhibit 6)

21. At the time relevant to the complaint, Respondents were associated with several real estate sales agents, including Complainant. These agents did not receive salaries, and they were paid only on commission. Respondents did not deduct Social Security or withhold tax from these commissions, and did not give the sales agents cash advances on commissions. An Internal Revenue Service form 1099 memorialized the payment of these commissions. (Tr. 125-26, 128, 239-41)

22. Respondents’ sales agents took vacation at their discretion, and determined when they would leave and how long they would be on vacation. (Tr. 127, 243, 245)

23. Sales agents were not retained pursuant to an employment contract. (Tr. 241)

24. The commissions paid to sales agents represented a percentage of Respondents’ earnings on a particular real estate transaction. The percentage was set by Respondents’ office policy. (Tr. 125, 284)

25. Complainant maintained her own clients, consisting of people she had worked with before. These clients would call Complainant when they needed her services. (Tr. 171)

26. Respondent Mody assigned each sales agent a number. That number was then entered on a scheduling calendar, which set forth the days each month that the particular agent was



scheduled to be present at Respondents' office to meet with members of the public or the agent's clients. (Tr. 169-70, 173, 242, 284-85)

27. Sales agents were not required to be in the office on their scheduled days. (Tr. 126-27, 242-43, 285-86)

28. Complainant determined which properties she would list or sell. (Tr. 171-72)

29. On one occasion in or around August 2018, Complainant asked Respondent Mody to accompany her to inspect a commercial property so that he could provide his opinion about the proper listing price of the property. (Tr. 264-66, 268)

30. Both Complainant and Respondent Mody considered Complainant to be an independent contractor. (Tr. 174, 295)

### **Allegations of Sexual Harassment**

31. Respondent's offices consisted of a large central room with file cabinets, desks, a counter, and other equipment. Rooms for individual offices were located on the sides of the central room. (Tr. 326-28; Respondent's Exhibits 2-4)

32. Smith's office opened onto the central room. Smith had a clear view of most of the central room, including the counter, and her desk was approximately 10 feet away from Complainant's. (Tr. 117-22, 325-27, 329-330, 341; Respondents' Exhibits 2-4)

33. Respondent Mody's office also opened onto the central room. The entrance to his office was visible from Smith's office. (Tr. 123, 328; Respondents' Exhibit 3 and 5)

34. Complainant testified at the public hearing that beginning soon after her return to Respondent's office in 2012, Respondent Mody continuously sexually harassed her physically and verbally, "several times a week" up to and including 2018, and that this treatment made her life "miserable." (Tr. 40, 47-49, 117, 161-63, 166-67)

35. Complainant testified that when Respondent Mody physically harassed her she would “yell” and “scream” in an effort to discourage him. (Tr. 117-18)

36. Complainant did not tell anyone, including her own family, that Respondent Mody had harassed her, either during her work with Respondents between 1998 and 2006, or during her later association with Respondents beginning in 2012. (Tr. 77, 88-89, 330)

37. Contrary to Complainant’s claims, Smith never observed Respondent Mody sexually harassing Complainant. (Tr. 43-44, 322, 330, 333; ALJ Exhibit 4, p. 9)

38. Marie Pearson (“Pearson”) began work for Respondents as an associate broker in or about 2017. (Tr. 41)

39. Contrary to Complainant’s claim that Pearson had witnessed sexual harassment of Complainant by Respondent Mody, Pearson stated during the Division’s investigation of the instant complaint that she had not witnessed inappropriate behavior by Respondent Mody towards Complainant. (Tr. 40-41, 88, 97-101; ALJ Exhibit 4, p. 9)

40. Harry Young (“Young”) was an associate broker in Respondents’ office during the time relevant to the complaint. (Tr.; ALJ Exhibit 4, pp. 4 and 9)<sup>3</sup>

41. Contrary to Complainant’s claim that Young had witnessed sexual harassment of Complainant by Respondent Mody, Young stated to Complainant prior to the public hearing that he could not remember inappropriate behavior by Respondent Mody towards Complainant. (Tr. 101-02)

42. Respondent Mody testified that he had not sexually harassed Complainant. Based on his demeanor and behavior during questioning at the public hearing, I found his testimony credible. (Tr. 244-46, 275)

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<sup>3</sup> Young was also referenced in the transcript as “hairy young.” (Tr. 196)

43. On September 11, 2018, Complainant broke her shoulder. She was then out of work until on or about October 2, 2018. (Tr. 49)

44. Thomas Loughren is Complainant's husband. (Tr. 191)

45. During November 2018, Thomas Loughren visited Respondents' office on two occasions to dispute a commission that had been paid to Complainant regarding a real estate transaction. He accused Respondent Mody of paying Complainant less than what she was owed pursuant to office policy, and the two argued. (Tr. 208-10, 246-49, 251-52, 291, 309-10)

46. Smith was present at the office on both occasions and heard the arguments. (Tr. 226-27, 323-25, 335-36)

47. Thomas Loughren did not accuse Respondent Mody of sexual harassment on either occasion. (Tr. 250, 292, 324-25, 336-37)

48. During Thomas Loughren's second visit to Respondents' office, he informed Respondent Mody that he would report the commission dispute to the Division of Licensing Services. (Tr. 251-52, 309-10)

49. On November 21, 2018, Complainant sent an email to Smith regarding the commission dispute with Respondents in which she stated, *inter alia*, "I have 2 more 'buyer closings' and after that I'm done." (Tr. 106-08, 111-12, 335; Respondents' Exhibit 1)

50. In December 2018, Complainant told Thomas Loughren that she would not return to work at Respondents' office. (Tr. 148-49)

51. In or about December 2018, Complainant filed a complaint with the Division of Licensing Services regarding her commission dispute with Respondents. In that complaint, Complainant also alleged that Respondent Mody had sexually harassed her, stating: "He is

elderly and finds the need to grope me by hugging, getting in my personal space and has patted me on my behind.” (Tr. 56-61, 128, 192-93; Complainant’s Exhibits 2 and 3)

52. On December 28, 2018, Complainant left for Florida, where she remained until April 7, 2019. (Tr. 114-16)

53. On January 2, 2019, Complainant sent an email to Smith stating, *inter alia*, “I haven’t decided what I am going to do so I am not paying my dues until I make my decision.” Complainant also stated that she would not come back to New York until May 2019. (Tr. 149, 154-55, 156-57, 257-58, 261-62; Respondent’s Exhibit 8, p. 2)

54. Prior to receiving Complainant’s January 2019, email, Respondent Mody paid Complainant’s MLS dues in the amount of \$137. (Tr. 65, 116, 151-52, 253, 255; Respondent’s Exhibit 8)

55. Respondent Mody paid the MLS dues because Complainant had contacted him while in Florida and requested that he pay the dues so that she could avoid a late fee. Complainant stated that Respondent Mody could deduct that money from “her next closing.” (Tr. 253-56, 258, 296)

56. On or about January 4, 2019, Complainant canceled her MLS membership. (Tr. 154, 255-56)

57. Respondent Mody believed that Complainant would not return to work at Respondents’ office. After Complainant canceled her MLS membership, Respondent Mody requested and received a refund of the MLS dues. (Tr. 256; Respondents’ Exhibit 8)

58. On or about January 7, 2019, the Division of Licensing Services informed Complainant that it had no jurisdiction regarding her dispute with Respondents. (Tr. 60)

59. Complainant was issued another real estate agent license effective January 6, 2019, to January 5, 2021 (the “2019 license”). The license stated that Complainant was affiliated with Respondent Mody. (Tr. 65-66, 133-44; Respondents’ Exhibit 7)

60. The copy of the 2019 license proffered in evidence at the public hearing had the name and address of Respondent Mody crossed out. (Tr. 262-64; Respondents’ Exhibit 7)

61. Respondent Mody crossed out the name and address because it was his understanding that Complainant would no longer be associated with his office. (Tr. 245, 258-60, 294-96, 312)

62. Respondents did not “fire” Complainant or terminate her association with Respondents. (Tr. 252, 258)

63. The cross-out had the effect of suspending Complainant’s license until she became associated with another real estate broker. Complainant was free to work with a different broker if she chose. (Tr. 67-70, 245, 258-60, 301, 304; Complainant’s Exhibit 4)

64. The cross-out did not have the effect of preventing Complainant from finding another job, contrary to Complainant’s claim. (ALJ Exhibit 5)

65. Respondents returned Complainant’s license to her in January 2019. (Tr. 294, 301-03)

66. Complainant occasionally avoided answering questions directly at the public hearing. This conduct detracted from her credibility as a witness. (Tr. 154-55, 157)

### **OPINION AND DECISION**

Pursuant to N.Y. Exec. Law art. 15 (the “Human Rights Law”), it is an unlawful act for “an employer... because of an individual’s... sex... to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.” Human Rights Law § 296.1

(a).

An employer who causes or permits the existence of a hostile work environment may be in violation of the Human Rights Law. In order to establish a hostile work environment claim under Human Rights Law § 296.1 (a), a complainant must show that the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive work environment. *Forrest v. Jewish Guild for the Blind*, 3 N.Y.3d 295, 310, 786 N.Y.S.2d 382 (2004) (quoting *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21, 114 S. Ct. 367 (1993)). Whether an environment is hostile or abusive can be determined only by looking at all the circumstances, including the "frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. The effect on the employee's psychological well-being is, of course, relevant to determining whether the plaintiff actually found the environment abusive." *Id.* at 311 (quoting *Harris*, at 23). Moreover, the conduct must both have altered the conditions of the victim's employment by being subjectively perceived as abusive by the plaintiff and have created an objectively hostile or abusive environment--one that a reasonable person would find to be so. *Id.* (quoting *Harris*, at 21).

The Human Rights Law defines an "employer" by referring only to the number of persons in its employ, and does not define the employer-employee relationship. Generally, four elements are considered when determining whether an employer-employee relationship exists: (1) the selection and engagement of the servant, (2) the payment of salary or wages, (3) the power of dismissal, and (4) the power of control of the servant's conduct. The key element is the employer's power to "order and control" the employee's work performance. *See State Div. of*

*Human Rights v. GTE Corp.*, 109 A.D.2d 1082, 1083, 487 N.Y.S.2d 234, 235 (4th Dept. 1985).

N. Y. Real Property Law article 12-A, entitled “Real Estate Brokers and Real Estate Salesmen” §§ 440-443-a, provides for the licensing of real estate brokers and salespeople, and the terms and conditions of such licenses. Complainant’s real estate salesman, or salesperson, license entitled her to work in the real estate field in association with a licensed real estate broker. N.Y. Real Property Law §§ 440 and 440-a. N.Y. Real Property Law article 12-A does not define whether a real estate agent associated with a broker is an employee or contractor. In the instant case, Complainant worked as a real estate sales agent in association with Respondents, a licensed real estate brokerage. Respondents’ secretary, Smith, was an employee. In contrast to Smith, Complainant did not receive a salary and was paid only on commission. Respondents did not make any deductions from these commissions for Social Security or other withholding, and did not give Complainant cash advances against future commissions. Respondent filed an Internal Revenue Service form 1099 regarding the payment of these commissions. Although Respondents assigned days on which Complainant could be at Respondents’ office to meet with clients, Complainant was not required to attend on those days. Complainant took vacations at her discretion, determining on her own when she would leave and how long she would be on vacation. Complainant maintained her own group of clients and made contact with them at her discretion. Complainant had full responsibility for determining which properties she would list or sell. Complainant also had full responsibility for determining how she would perform the work. On one occasion in August 2018, Respondent Mody accompanied Complainant to a commercial property, at her request, to provide advice regarding the property. This was the only occasion during Complainant’s six years of work between 2012 and 2018 in which Complainant demonstrated that Respondents provided her with guidance regarding the

performance of her work. Complainant was licensed as a real estate sales agent, with the ability to associate herself with any licensed real estate broker, and Complainant paid her own licensing and MLS fees. Finally, both Complainant and Respondents regarded her position to be that that of an independent contractor, not an employee. On the basis of these facts, I conclude that Respondents retained Complainant as a contractor, not an employee.

Because Complainant was a contractor rather than an employee, she is not entitled to the protections of Human Rights Law § 296.1 (a). However, pursuant to an amendment to the Human Rights Law, § 296-d (effective April 12, 2018),<sup>4</sup> it is an unlawful discriminatory practice for an employer to permit sexual harassment of non-employees in the workplace when the employer knew or should have known that such non-employee was subjected to sexual harassment. Non-employees protected by this subsection include contractors, consultants, or other persons providing services pursuant to a contract in the workplace. As a contractor, Complainant was protected by HRL § 296-d from April 12, 2018, and thereafter.

Pursuant to Human Rights Law § 297.5, “any complaint filed pursuant to this section must be filed within one year after the alleged unlawful discriminatory practice.” This provision is mandatory and constitutes a statute of limitations. Complainant filed her complaint on February 8, 2019, and thus events occurring between April 12, 2018, and February 8, 2019, are within the statutory period.

Complainant alleges that she was continuously subjected to both physical and verbal sexual harassment by Respondent Mody both during her first period of association with Respondents from 1998 to 2006, and during her second association with Respondents, from 2012 through 2018. Complainant never complained regarding this harassment to anyone between

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<sup>4</sup> Added L.2018, c. 57, pt. KK, subpt. F, § 1.



1998 and 2018, even her closest relatives. Complainant did not discourage her female relatives from working for Respondents or warn them about Respondent Mody, despite the allegedly continuous and humiliating nature of his behavior. After leaving her association with Respondents in 2006, Complainant voluntarily returned to Respondent's office in 2012, and stayed there through 2018. Complainant had extensive experience as a real estate agent, and she admitted that she could have sought employment with other real estate brokers in the area. However, Complainant chose to return to the scene of the alleged abuse. The main room of Respondents' offices, in which the verbal and physical harassment was alleged to have taken place, was visible to other employees and associate brokers. Had such behavior occurred when these persons were present, the behavior would have been easily observable. However, not one of the three persons who Complainant cited as witnesses to the alleged physical and verbal harassment supported her claims. Complainant has failed to state a prima facie case of discrimination, and this claim is dismissed.

Human Rights Law § 296.7 makes it an "unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate against any person" who has opposed discriminatory practices. To make out a prima facie case of retaliation, a complainant must show that (1) she engaged in activity protected by the Human Rights Law, (2) the respondent was aware that the complainant participated in the protected activity, (3) she suffered an adverse employment action, and (4) there is a causal connection between the protected activity and the adverse employment action. *See Adeniran v. State of New York*, 106 A.D. 3d 844, 965 N.Y.S.2d 163 (2d Dept. 2013).

As set forth above, Complainant was a contractor, providing services to Respondents, and as of April 12, 2018, she was entitled to the anti-retaliation protections of Human Rights Law

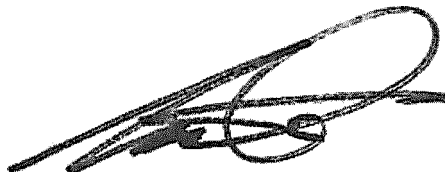
§ 296.7. Complainant engaged in activity protected by the Human Rights Law when she filed her complaint with the Division of Licensing Services alleging, *inter alia*, that Respondent Mody had physically harassed her. However, Complainant did not demonstrate that Respondents were aware of the contents of this complaint before Complainant ceased her association with Respondents. Further, Complainant did not demonstrate that she was discharged by Respondents. Her actions and communications with Respondents and the Multiple Listing Service during December 2018 and January 2019 indicate that she did not intend to return to work with Respondents. Respondent Mody, reasonably believing that Complainant did not intend to work at his office, crossed out his name and address on it Complainant's license and returned it to her. Complainant was then free to seek other employment. Complainant has failed to state a prima facie case of retaliation, and this claim is dismissed.

**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 the complaint be, and hereby is, dismissed.

DATED: June 30, 2021  
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