ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS on the Complaint of **CAROL POUST,** Complainant, v. **RONALD E. HAWK, RONALD HAWK AND BIG JIMS MONEY INC. D/B/A CHAFFEE FLATTS BAR AND GRILL,** Respondents.	**NOTICE AND FINAL ORDER** Case No. 10162473

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 March 31, 2015, 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 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: MAY 06 2015.
Bronx, New York

HELEN DIANE FOSTER
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS
on the Complaint of

CAROL POUST,

Complainant,

v.

RONALD E. HAWK, RONALD HAWK AND BIG JIMS MONEY INC. D/B/A CHAFFEE FLATTS BAR AND GRILL,

Respondents.

RECOMMENDED FINDINGS OF FACT, OPINION AND DECISION, AND ORDER

Case No. **10162473**

SUMMARY

Complainant, a 55 year old female, proved that Respondents subjected her to a hostile work environment based on age and gender. Complainant also established that Respondents constructively discharged her. Respondents are liable for mental anguish damages in the amount of $10,000. Respondents are liable to the State of New York for civil fines and penalties in the amount of $3,000. Complainant did not show that Respondents retaliated against her. Accordingly, the retaliation claim is dismissed.

PROCEEDINGS IN THE CASE

On June 4, 2013, 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 the basis of age and sex.

On September 13, 2013, the Division's Regional Office amended the complaint to include retaliation as a basis. (ALJ Exh. 3)

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 Martin Erazo, Jr., an Administrative Law Judge ("ALJ") of the Division. Public hearing sessions were held on September 19 and 23, 2014, and November 10, 2014.

Complainant and Respondents appeared at the hearing. Complainant was represented by Richard D. Grisanti, Esq. Respondents were represented by the law offices of Bennett, DiFilippo & Kurtzhalts, LLP, Ronald P. Bennett, Esq., of counsel.

FINDINGS OF FACT

Parties

1. Complainant is female. Complainant's date of birth is October 30, 1957. (Tr. 48; ALJ Exhs. 1, 2)

2. Ronald Hawk and Big Jims Money Inc., d/b/a Chaffee Flatts Bar and Grill ("Chaffee Flatts") is a corporation that operates a restaurant and bar at 10945 Route 16, Chaffee, New York, 14030. (Tr. 217, 430; ALJ Exh. 1)

3. Chaffee Flatts is owned by Ronald Hawk ("Hawk"), Marv Zielonka ("Zielonka"), and Naoto Kan. (Tr. 217)

4. Hawk is president of Chaffee Flatts. (Tr. 217)

5. On January 1, 2013, Zielonka hired Complainant to work at Chaffee Flatts as a cook. (Tr. 23, 232, 308)

6. Complainant was 55 years old when she was hired. (Tr. 48; ALJ Exhs. 1, 2)

7. Complainant worked Monday through Friday, 9 a.m. to 5:00 p.m. and on occasion also worked a second shift, 5:00 p.m. to 11:00 p.m. (Tr. 25-26)

8. Zielonka was Complainant's supervisor. (Tr. 25)

9. Hawk did not directly manage the day-to-day operations of Chaffee Flatts but performed regular maintenance tasks. (Tr. 220)

Offensive Workplace Comments

10. Hawk made offensive sexual and age based comments to Complainant during the course of her employment. (Tr. 42)

11. The offensive comments ranged in frequency from two to four times a week. (Tr. 29, 42)

12. Hawk told Complainant "you're too old to be working here," that he wanted "young, hot chicks," and "show me your tits." (Tr. 28-30, 42)

13. Zielonka, Hawk's partner, warned Complainant at the start of her employment, that Hawk did not want her there because she was too old. (Tr. 62-64)

14. Complainant described Zielonka as "protective" of her. (Tr. 73-74)

15. However, when Complainant complained to Zielonka about Hawk's comments, he replied "that's just how he is" and did not attempt to correct Hawk's behavior. (Tr. 30-32)

16. Although Complainant did not recall any exact dates, she complained to Zielonka about Hawk's behavior on multiple occasions throughout her employment. (Tr. 30-32)

17. Ethan Schade ("Schade"), Complainant's witness, was employed at Chaffee Flatts as a cook from February 2013 to March 2013. (Tr. 125-28)

18. Schade wears gauge piercings in his ears. (Tr. 131)

19. Hawk confronted Schade regarding his gauge piercings and asked Schade if he was a "faggot." (Tr. 131)

20. On three occasions Hawk called Schade a "faggot" for wearing gauge earrings. (Tr. 132)

21. In another incident in February 2013, while working in the kitchen, Schade asked Hawk where to place the dishes. (Tr. 129)

22. Hawk responded, "[W]ell I can show you," and proceeded to put his hands up a female employee's shirt, grabbing her breasts. (Tr. 129-30)

23. In addition, Schade testified that Hawk asked another female employee, Kelly (last name unknown), to show her breasts. (Tr. 134)

January 18, 2013

24. On January 18, 2013, Hawk came to Chaffee Flatts to repair the walk-in refrigeration unit. (Tr. 233-34)

25. Hawk was assisted by a friend, Michael Limburg. (Tr. 234)

26. While repairing the refrigeration unit, Hawk and Limburg shut off the compressor and brought in a mop and bucket to clean up the water. (Tr. 235, 239)

27. There is no window on the refrigeration unit door. (Tr. 85)

28. The refrigeration unit door opens outward. (Tr. 89, 260-61)

29. Complainant attempted to enter the refrigeration unit to retrieve items for food preparation, unaware of Hawk's or Limburg's presence. (Tr. 34, 79, 86)

30. At the same time, Hawk exited the refrigeration unit by pushing the door open with the mop and bucket while also carrying tools in his hand. (Tr. 87, 254-55, 358)

31. Hawk hit Complainant with the refrigerator door. (Tr. 258)

32. Hawk apologized to Complainant for striking her with the door. (Tr. 258)

33. Complainant then proceeded into the kitchen, through a swinging door. (Tr. 147, 152, 251, 257, 264)

34. Hawk also proceeded towards the swinging door. (Tr. 257-60, 360-61)

35. Beyond the swinging door was an exit door where Hawk could leave the facility in order to empty the bucket of water. (Tr. 259, 360-61)

36. As Hawk proceeded through the swinging door, it also struck Complainant. (Tr. 35, 257)

37. Hawk did not see Complainant behind the swinging door. (Tr. 262)

38. Upon impact, Complainant grabbed a rolling cart of trays for support, knocking trays off the cart. (Tr. 155-57, 257)

39. Hawk believed that Complainant exaggerated the impact of the door. (Tr. 262)

40. Hawk told Complainant, "[N]ow, you F'ing clean this up." (Tr. 153)

41. Hawk continued past Complainant, exited the facility, and emptied the bucket of water. (Tr. 259, 361)

42. I do not credit Complainant's claim that Hawk punched her in the right arm as he exited the refrigeration unit and the swinging door. (Tr. 34-35, 55, 86-88, 144-45)

43. At the public hearing, Complainant conceded that Hawk was handling both a mop bucket and tools. (Tr. 87)

44. Complainant never notified law enforcement or sought medical attention for what she described as a very serious assault that caused her serious physical pain. (Tr. 39-41, 160)

45. Complainant continued to work the balance of the scheduled shift on January 18, 2013. (Tr. 41)

46. Complainant offered pictures as evidence of bruises sustained from Hawk's January 18, 2013, alleged assault. (Complainant Exhs. 1, 2)

47. The pictures are unreliable as evidence as they are undated, are a close up of a right arm injury, and do not show whose right arm is being shown. (Complainant Exhs. 1, 2)

48. Furthermore, at the public hearing, Complainant was evasive and belligerent when questioned on her version of events on January 18, 2013. (Tr. 88, 92-95, 146)

49. Complainant caused her examination to be interrupted on multiple occasions, calling the questions "stupid" and "ridiculous." (Tr. 88, 92-95, 146)

50. In March 2013, Zielonka, Hawk's partner, reduced Complainant's hours at that time, because business had been slowing down. (Tr. 281-82)

51. In March 2013 Complainant accepted Hawk's offer to clean his home although she claims that Hawk had assaulted her on January 18, 2013. (Tr. 280-81)

52. In March 2013 Hawk terminated Complainant's cleaning position shortly after finding that she had placed his personal belongings in the trash. (Tr. 280, 283, 330)

Joshua Cruz

53. Joshua Cruz was called as a key witness by both Complainant and Respondent to the events of January 18, 2013. (Tr. 98, 369, 433)

54. Cruz worked for Respondents as a cook from September 2012 to March 2013. (Tr. 105)

55. Cruz did not see the alleged incident of January 18, 2013, but testified to alleged statements made by the parties before and after the incident. (Tr. 399)

56. However, I do not credit any of Cruz's testimony. At the public hearing, Cruz admitted that he testified against Respondent on September 19, 2014, because Complainant promised to pay him enough money to possibly buy a car, if she won her case. (Tr. 391, 397)

57. In addition, immediately following Cruz's September 19, 2014, testimony in favor Complainant, Hawk offered him a job. (Tr. 405-07, 444-45)

58. Cruz accepted Hawk's offer, returned to the public hearing, and testified on two additional occasions on Respondents' behalf. (Tr. 299)

Separation From Employment

59. On April 16, 2013, Complainant resigned from her employment with Respondents. (Tr. 49-50, 232)

60. Complainant felt "sick and tired" of Hawk's verbal abuse. (Tr. 44)

61. Complainant testified that she had a heart attack at 45 years of age, suffers from diabetes and high blood pressure. (Tr. 42-43)

62. The stress of working with Hawk was causing Complainant to feel worse. (Tr. 43-44)

63. While Complainant worked for Respondents she "would get up about three, four times in the middle of the night." (Tr. 44)

64. At the public hearing Complainant admitted that she did not seek employment after leaving Respondents employment. (Tr. 165)

65. Complainant stated that "This whole ordeal has made me paranoid…I'm not capable of going into the workforce anymore." (Tr. 165)

OPINION AND DECISION

Hostile Working Environment

Under N.Y. Exec Law, art. 15 ("Human Rights Law") § 296.1(a), it is an unlawful discriminatory practice for an employer "because of an individual's age… [or] sex … 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 age or sex, Complainant must demonstrate that she was subjected to a work environment permeated with discriminatory intimidation, ridicule and insult that was sufficiently severe or pervasive to alter the conditions of her employment and create an abusive working environment. Complainant must subjectively view the conduct as unwelcome. In addition, a reasonable person must objectively view the conduct as severe or pervasive enough to create an abusive environment. *Father Belle Community Center v. New York State Division of Human Rights*, 221 A.D.2 44, 642 N.Y.S.2d 739 (4th Dept. 1996), *leave to appeal denied*, 89 N.Y.2d 809, 716 N.Y.S.2d 533 (1997). When assessing claims of a hostile working environment and its pervasiveness, the ultimate decision depends on the totality of the circumstances. *McIntyre v. Manhattan Ford, Lincoln-Mercury, Inc.*, 175 Misc.2d 795, 669 N.Y.S.2d 122 (N.Y. Sup. Ct. 1997), *appeal dismissed*, 256 A.D. 269, 682 N.Y.S.2d 167 (1st Dept. 1998), *appeal dismissed*, 93 N.Y.2d 919, 713 N.E.2d 418 (1999), *leave to appeal denied*, 94 N.Y.2d 753, 722 N.E.2d 507 (1999).

Complainant did not establish that Chaffee Flatts co-owner, Hawk, physically assaulted her on January 18, 2013, as she claims. Nonetheless, Complainant established a claim of harassment based on age and sex. The evidence corroborates Complainant's version of events

on this issue. Co-owner Zielonka warned Complainant at the start of her employment that Hawk did not like her because she was too old. Indeed, the proof shows that Hawk subjected Complainant to offensive sexually and age based comments during her employment, nearly on a daily basis. Hawk made comments such as "you're too old to work here" and "show me your tits." Hawk's comments were unwelcome. Complainant complained to co-owner Zielonka about Hawk's comments. Zielonka never attempted to correct Hawk's behavior and told Complainant "that's just how he is." Accordingly, Complainant met her burden of proof that she was subjected to a hostile work environment.

Retaliation

Complainant alleged that Hawk retaliated against her because she did acquiesce to his sexual advances. "It shall be an unlawful discriminatory practice...for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he...has opposed any practices forbidden under this article or because he...has filed a complaint, testified or assisted in any proceeding under this article." Human Rights Law § 296.7

To establish a prima facie retaliation claim, Complainant must demonstrate that: 1) she engaged in a protected activity; 2) Respondents were aware of such protected activity; 3) she suffered an adverse employment action; and 4) a causal connection existed between the protected activity and the adverse employment action. *Pace v. Ogden Services Corp.*, 257 A.D.2d 101, 692 N.Y.S.2d 220 (3d Dep't., 1999).

Complainant did not establish a prima facie case of retaliation.

Complainant engaged in protected activity when she complained to co-owner Zielonka throughout her employment about Hawk's comments.

At the public hearing, Complainant did not allege that she was subjected to any adverse employment action. During the Division's investigation, Complainant claimed that Hawk physically assaulted her because she would not comply with sexual advances. At the public hearing, however, Complainant testified that the alleged physical assault was part of the harassment. In either case, Complainant never proved that she was physically assaulted by Hawk.

During the public hearing, Respondents, not Complainant, raised the issue that Zielonka reduced Complainant's hours in March 2013 because of a slow-down in business. Complainant never testified or alleged that the reduction in hours was an adverse employment action.

Accordingly, Complainant's allegation of retaliation must be dismissed.

Constructive Discharge

Complainant also alleged that she was compelled to leave Respondents' employment on April 16, 2013 because of the age and gender based harassment caused by Hawk. Constructive discharge occurs under the Human Rights Law when the discriminatory actions attributable to the employer are so intolerable that the employee's only reasonable course of action is to resign. *See Imperial Diner, Inc. v. State Human Rights Appeal Board*, 52 N.Y.2d 72, 78 (1980). When a constructive discharge is found, an employee's resignation is treated as if the employer had actually terminated the employee. *Pena v. Brattleboro Retreat*, 702 F.2d 322, 325 (2d Cir. 1983). Complainant established that Hawk's unlawful discriminatory conduct was intentional and that such conduct created working conditions so intolerable that a reasonable person would have been compelled to resign. *See Petrosino v. Bell, 385 F.3d 210* (2d Cir. 2004). On April 16, 2013, Complainant resigned from her employment. Hawk continually made offensive age and sex based comments. Co-owner Zielonka did not stop Hawk's behavior although aware of

it. Complainant established that the hostile working environment created by Hawk began to affect her poor health. Complainant had a heart attack at 45 years of age, suffers from diabetes and high blood pressure. The stress of working with Hawk caused Complainant to feel worse. A reasonable person in Complainant's particular situation would have been compelled to resign.

Hawk's Liability

Hawk is an employer under the Human Rights Law. Hawk was owner of Chaffee Flatts. Hawk had the full authority to do more than carry out decisions made by others. As an employer, Hawk is personally liable for his sexually offensive acts under the Human Rights Law. *Patrowich v. Chemical Bank*, 62 N.Y. 2d 541, 43 N.Y.S. 2d 659 (1984).

Chafee Flatts' Liability

An employer cannot be held liable for an employee's harassment unless it encourages, condones or approves the harassment. Inaction by an employer in response to an employee's harassment can constitute condonation under Human Rights Law. *See Matter of State Division of Human Rights v. St. Elizabeth's Hospital*, 66 N.Y.2d 684, 687, (1985). In this particular matter the owner himself, Hawk, engaged in the unlawful harassing activity. Co-owner Zielonka failed to take action to stop it. Clearly, Complainant established that the owners had knowledge of the offensive conduct and ignored it. *See Vitale v Rosina Food Products, Inc.*, 283 AD2d 141 (4th Dept. 2001). Chaffee Flatts is liable for Hawk's actions. *See 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).

Lost Wage Damages

Complainant did not sustain lost wage damages as she failed to mitigate by actively seeking employment after she left Chaffee Flatts. There is no evidence to support Complainant's

unsubstantiated claim that Respondents' treatment of her is the cause for not seeking employment.

Mental Anguish Damages

Complainant is entitled to recover compensatory damages caused by Respondent's 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).

Complainant credibly testified about the negative effect caused by Respondents' discriminatory conduct. Complainant testified that the stress caused by Hawk's treatment of her exacerbated her high blood pressure. Hawk's actions made her feel "sick and tired" and caused her to lose sleep. Complainant would awaken about three to four times during the night. At the public hearing, nearly a year and a half after separating from employment, Complainant appeared upset and annoyed at Respondents' discriminatory actions.

Given Respondent's conduct, the degree and duration of Complainant's suffering, an award of $10,000 for emotional distress is appropriate and would effectuate the purposes of the Human Rights Law of making Complainant whole. *Palmisano v. New Venture Gear*, SDHR Case No. 5752007, (June 28, 2006), (Commissioner awarded complainant $10,000. After being terminated Complainant was lethargic, confused, in a state of shock, humiliated, and had trouble sleeping.) *aff'd, New Venture Gear, Inc.* v. *N.Y. State Div. of Human Rights (Palmisano)*, 41 A.D.3d 1265, 839 N.Y.S.2d 375 (4th Dept. 2007)

Civil Fines and Penalties

A civil fine and penalty of $3,000 is appropriate in this matter. *See Noe v. N.Y. State Div. of Human Rights (Martin)*, et.al.,101 A.D.3d 1756, 957 N.Y.S.2d 796 (4th Dept. 2012) (Commissioner's penalty of $20,000 affirmed), *also see Johnston v. N.Y. State Div. of Human Rights, et.al.*, 100 A.D.3d 1354, 953 N.Y.S.2d 757 (4th Dept. 2012), *New York State Div. of Human Rights v. Stennett*, 98 A.D.3d 512, 949 N.Y.S.2d 459 (2d Dept. 2012).

Human Rights Law § 297 (4)(c)(vi) permits the Division to asses 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."

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. *Gostomski v. Sherwood Terr. Apts.*, SDHR Case Nos. 10107538 and 10107540, November 15, 2007, *aff'd, Sherwood Terrace Apartments v. N.Y. State Div. of Human Rights (Gostomski)*, 61 A.D.3d 1333, 877 N.Y.S.2d 595 (4th Dept. 2009), *119-121 East 97th 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, Respondents' degree of culpability, and the nature and circumstances of Respondents' violation, warrant a penalty. Hawk's behavior was repulsive and cannot be permitted in any workplace in New York State. In addition, co-owner Zielonka allowed Hawk's behavior although he was aware of the offensive conduct. Nonetheless, although Respondents' behavior is impermissible, the amount of civil fine and penalty is commensurate with economic circumstance of Respondents. Respondents are a very small business and the fine is in proportion to its ability to pay. There was no proof that Respondents were adjudged to have committed any previous similar violation of the Human Rights Law or are 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 shall pay to Complainant the sum of $10,000 as compensatory damages for mental anguish, humiliation and pain, Complainant suffered as a result of Respondents' unlawful discrimination against her. 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.

2. The payments shall be made by Respondents in the form of certified checks, made payable to the order of Carol Poust and delivered by certified mail, return receipt requested, to her attorney Richard Grisanti, Esq., at 1925 Galaxy Drive, Arcade, New York 14009. Copies of the certified checks shall be provided to Caroline Downey, Esq., General Counsel of the Division, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

3. Within sixty days of the date of the Commissioner's Final Order, Respondents shall pay to the State of New York the sum of $3,000 as a civil fine and penalty for their violations 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.

4. The payment of the civil fine and penalty shall be made by Respondents 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.

5. Within sixty days of the Final Order, Respondents shall establish a policy regarding the prevention of unlawful discrimination. This policy shall include a clear reporting mechanism for all employees in the event of discriminatory behavior or treatment. All Respondents' employees

shall attend a training program in the prevention of unlawful discrimination in accordance with the Human Rights Law. A copy of the policy, the reporting mechanism, and proof of attendance at an anti-discrimination program, 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.

6. Respondents shall cooperate with the representatives of the Division during any investigation into compliance with the directives contained in this Order.

DATED: March 31, 2015
Buffalo, New York

Martin Erazo, Jr.
Administrative Law Judge