ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS
on the Complaint of

ROBERT STARR,

Complainant,

v.

THE OFFICE, INC., ROY DEAN,

Respondents.

NOTICE AND FINAL ORDER

Case No. 10145413

Federal Charge No. 16GB100846

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 31, 2012, 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: 9/18/2012
Bronx, New York

GALEN D. KIRKLAND
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

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THE OFFICE, INC.,
ROY DEAN

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RECOMMENDED FINDINGS OF FACT, OPINION AND DECISION, AND ORDER

Case No. **10145413**

SUMMARY

Complainant established that Respondent unlawfully refused to hire him as a bartender because he is male. Complainant is entitled to a mental anguish award of $2,500 and a lost wage award of $6,547.50. Respondent is also liable to the State of New York in the amount of $1,000 in civil fines and penalties.

PROCEEDINGS IN THE CASE

On November 26, 2010, Complainant filed a verified complaint with the New York State Division of Human Rights ("Division"), charging Respondent with unlawful discriminatory practices relating to employment in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

After investigation, the Division found that it had jurisdiction over the complaint and that probable cause existed to believe that Respondent 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. A public hearing session was held on March 22, 2012 .

Complainant and Respondent appeared at the hearing. Complainant was represented by the Law Offices of Sanders & Sanders, P.C., Harvey P. Sanders, Esq., of counsel. Respondent was represented by the Law Offices of Tisdale & Coykendall, P.C., W. Maxwell Coykendall, Esq., of counsel.

FINDINGS OF FACT

Parties

1. Complainant, Robert Starr, is a male. (ALJ Exhibits 1, 2)

2. Complainant is a skilled bartender with approximately ten years of experience. (ALJ Exhibits 1, 2; Joint Exhibit 3)

3. The Office, Inc. is a small establishment that operates as a restaurant and bar in Wheatfield, NY, with a net weekly profit of $200. (ALJ Exhibit 2; Tr. 12, 47)

4. Roy Dean ("Dean") is the owner and president of The Office, Inc. (Tr. 6, 43)

5. Respondents have a total of five employees: four female bartenders and one male bartender/cook. (Tr. 44, 47, 52)

6. Administrative notice is taken that Respondent Dean participated in the Division's investigatory and hearing process.

"Bikini Barmaid"/"Bikini Bartender"

7. On October 28, 2010 and November 14, 2010, Respondents posted advertisements on the internet website, craigslist.com, seeking a "Bikini Barmaid" for "Thong Thursday." (Joint Exhibit, pages 1, 2)

8. On November 25, 2010; December 12, 2010; January 1, 2011; January 18, 2011; January 19, 2011; January 21, 2011; January 26, 2011; February 14, 2011; and September 11, 2011, Respondents posted advertisements on craigslist.com, seeking a "Bikini Bartender" for "Thong Thursday." (Joint Exhibit 2, pages 3-11)

9. "Thong Thursday" is a weekly event that generates approximately 30 percent of Respondents' revenue and profit. (ALJ Exhibit 2; Joint Exhibit 1; Tr. 13-14, 48)

10. Respondents' advertisements state that the successful candidate would have to wear a thong bottom and a bikini top. (Joint Exhibit 2)

11. The job postings on craigslist.com required that applicants have strong bartending skills and the ability to handle large crowds. (Tr. 12, J Exhibit 2)

12. Respondents were looking for candidates who could work Thursdays during either of the two shifts during 11:00 a.m. to 2:00 a.m., keep customers in the bar, serve drinks, and attract people to the business. (Tr. 45, 48, 65; Joint Exhibit 2)

13. Respondent Dean admitted that a thong bottom and bikini top were not needed to make drinks, talk to customers, or take food orders. (Tr. 64-65)

Failure to Hire

14. October 29, 2010, Complainant responded to the job posting by mailing his resume to Respondent Dean. (Joint Exhibit 1; Tr. 18, 57)

15. Subsequently, on November 4, 2010, Complainant called Respondent Dean and had a brief conversation about his interest in the job. (ALJ Exhibit1, Joint Exhibit 1)

16. Respondent Dean commented to Complainant that he would be considered for the job if Complainant wore a thong. (ALJ Exhibits 1, 2, Tr. 18, 57-58)

17. Respondent Dean is not credible when he testified that he would have hired a male or a female as a "Bikini Barmaid" or "Bikini Bartender." (Tr. 62-64)

18. Complainant was neither offered an in-person interview nor the job, although Respondent Dean had Complainant's resume in-hand and was aware of his qualifications. (Joint Exhibits 1, 3; Tr. 19, 57)

19. Respondent Dean clearly intended only to hire a female for the position. Respondent Dean admitted that in earlier years he tried to have a "man-style bikini with a thong" for a ladies night but it did not work. He was not currently seeking to hire a male. (Tr. 55-56) Respondent Dean testified that he has a "95 percent male clientele" that he wanted to keep and expand upon. Dean testified:

> "there's 75 other bars around me and everybody's doing the same thing. We're doing something different and people like change, and they are going to be attracted to, you know, women in bikinis. It's a gimmick we've had. It works. And it's 30 percent of our income." (Tr.44, 51)

Economic Damages

20. Of Respondent's 11 advertisements, 10 indicate that an applicant for the Thursday "bikini bartender" position may earn $150 to $300 a shift plus hourly pay. One of the advertisements indicates that an applicant may earn $150 to $400 a shift plus hourly pay. (Joint Exhibit 2) The parties stipulated that an employee in the Thursday "bikini bartender" position may earn up to $400 per shift. (Joint Exhibits 1, 2)

21. While the advertisements vary in promotional commentary, it is clear that the $400 figure in tips is highly speculative and served as an enticement to attract potential female bartenders willing to wear a bikini on Thursdays. Respondent did not guarantee or control the amount of income from tips. (Joint Exhibit 2)

22. Although Complainant was not considered for the Thursday bikini bartender position because he is male, there is no proof in the record to show that Complainant would have been willing to wear a thong if he had been offered the bartender position. Even if Complainant had been willing to wear a thong, Complainant cannot reasonably claim that he would have earned $150 to $400 in tips. Respondents' earlier attempts at a "man-style bikini with a thong" had not been an economic success. (Tr. 55-56) The record clearly shows that the vast difference in tips between "Thong Thursday" and other nights was the scantily clad female bartender. Accordingly, the remaining appropriate comparator to calculate Complainant's potential earnings are those of other Respondents' male and female bartenders when fully clothed.

23. The proof established that on non-Thursday nights, Respondents' fully clothed male and female bartenders earned $40 to $60 in tips plus pay. A fair assessment of Complainant's potential earnings in tips is the average of $50 per shift. (Tr. 51)

24. There are 73 Thursdays from November 4, 2010 to March 22, 2012. 73 x $50 = $3,650.

25. In addition, administrative notice is taken that during the relevant time periods, the NYS base wage for food service workers was $4.65 an hour in 2010 and $5.00 an hour as of January 1, 2011, as long as the worker earned a $7.25 minimum hourly rate with tips.

26. The Thursday bartender position was an eight hour shift. (Tr. 21-22, 45)

27. Assuming Complainant would have earned $50 in tips per shift, Complainant would have earned $4.65 an hour x 8 hours = $37.20 per shift in 2010 and $5.00 an hour x 8 hours =

$40 per shift as of January 1, 2011. 9 (Thursdays in 2010) x $37.50 = $337.50. 64 (Thursdays in 2011-2012) x $40 = $2560. $2560 + $337.50 = $2,897.50. $2,897.50 (base pay) + $3,650 (tips) = $6,547.50.

28. Complainant mitigated his economic losses by actively seeking employment. (Tr. 19-21)

29. Complainant was not receiving unemployment insurance benefits. Complainant had not searched for employment from December 2009 to June of 2010 while he took care of his parents who were infirm. (Tr. 26-27)

30. Complainant was unable to secure employment from October 29, 2010, the date he responded to the Thursday bartender position, up to November 29th, 2010, the date he secured employment in courtesy transportation. (ALJ Exhibit 1; Tr. 18-21)

31. On November 29, 2010, Complainant secured employment in courtesy transportation at the Best Western Hotel at the rate of $7.25 per hour, three days a week, Monday, Tuesday and Saturday. At the time of the public hearing, Complainant was still employed at the Best Western Hotel. (Tr. 19-21)

32. Complainant's work hours at Best Western Hotel would not have overlapped or interfered with Respondents' Thursday work hours as a bartender. (Tr. 19-21)

Mental Anguish Damages

33. Complainant testified that Respondents' failure to hire made him "question his qualifications" and whether he was "actually good enough to be a bartender." (Tr. 19-20)

34. Complainant testified that this self questioning made him feel "stressed." (Tr. 19-20)

OPINION AND DECISION

Amendment

The complaint is amended to properly name Roy Dean, individually, as owner of The Office, Inc. The amendment conforms the pleadings to the proof. 9 NYCRR §465.12(f)14.

Roy Dean is properly added as a Respondent as per the relation back doctrine. Roy Dean suffered no unfair surprise as to claims of his individual liability. Roy Dean is the owner of The Office, Inc., and is united in interest with The Office, Inc. as the originally named Respondent. Respondent Dean made the decision to begin Thong Thursdays, to hire employees as Bikini Barmaids/ Bikini Bartenders, and not to hire Complainant because of his gender. Respondent Dean was clearly on notice that his decisions as president and owner of The Office, Inc., were at issue in this case. Complainant's verified Division complaint clearly identified Respondent Dean as the individual who refused to hire him. Respondent Dean participated in the Division's investigatory and hearing process. There is no proof that Mr. Dean 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 (1st Dept. 2000). Respondent Dean is individually liable, as the 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).

Failure to Hire

Under Human Rights Law §296.1(a), it is an unlawful discriminatory practice for an employer "because of the ... sex ... of any individual to discriminate against such individual in compensation or in terms, conditions or privileges of employment."

Complainant has the burden of establishing a prima facie case by showing that he is a member of a protected group, that he was qualified for the position held, that he suffered an

adverse employment action, and that Respondents' actions occurred under circumstances giving rise to an inference of unlawful 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 ultimate burden rests with Complainant to show that Respondents' proffered explanations are a pretext for unlawful discrimination. *See, Ferrante v. American Lung Ass'n.*, 90 N.Y.2d 623, 629-30, 665 N.Y.S.2d 25, 29 (1997).

Complainant established a prima facie case of sex discrimination that Respondents did not hire him because of his gender.

Complainant is a member of a protected class. Complainant is a male. Complainant established he is qualified for the position he sought. Complainant is a skilled bartender with over ten years of bartending experience. Complainant suffered an adverse employment action when Respondents refused to hire him for the "Thong Thursday" bartender position. Respondents' actions occurred under circumstances giving rise to an inference of unlawful discrimination. Respondents sought a female for the bartender position.

Respondents clearly articulated a discriminatory reason for their employment decision not to hire Complainant. Respondents sought to hire a female bartender, who would wear a thong, in order to promote business among its male clientele. Respondents seek a bona fide occupational qualification ("BFOQ") for their "Thong Thursday" event because it generates a substantial amount of Respondents' income.

The Human Rights Law bars employment discrimination because of a person's sex unless the alleged discrimination is based upon a BFOQ. *see* HRL §296.1(a)(d)

The BFOQ is an extremely narrow exception to the anti-discrimination provisions of the

Human Rights Law. It is an affirmative defense which must be pleaded and proved by Respondents. *New York State Div. of Human Rights v. New York-Pennsylvania Professional Baseball League,* 36 A.D2d 364, 320 N.Y.S. 788 (4th Dept. 1971), *aff'd* 29 N.Y.2d 921, 329 N.Y.S.2d 99 (1972). Respondents may establish the need for BFOQ by showing: (1) that the essence or central mission of its business operation would be undermined by failing to employ members of one sex exclusively; (2) that it is objectively and verifiably necessary to employee's performance of his or her job tasks and responsibilities. *International Union v. Johnson Controls Inc.*, 499 U.S. 187, 201, 111 S.Ct. 1196, 113 L.Ed.2d 158 (1991); *also see, EEOC v Sedita*, 816 F.Supp. 1291 (N.D. Ill. 1993) (where the Court considers additional BFOQ factors where customer privacy considerations are relevant)

Respondents do not qualify for a BFOQ for the "Thursday Thong" bartender position. Respondents' central mission is that of a restaurant and bar. Respondents were not seeking an exotic dancer for a related venue or a candidate for particular theatrical production where arguably a BFOQ may apply. Indeed, the "Thursday Thong" event was a one day a week "gimmick" used to bolster its overall sales as a restaurant and bar. A male or female could perform the job duties of waiting on customers, making drinks, serving drinks, and other such functions which are at the core of Respondents' establishment.

In addition, mere customer preference can never make out a case for the BFOQ exception. *Diaz v. Pan American World Airways,* 442 F.2d 385 (5th Cir. 1971). For example, an employer, who ran a Ramada Inn with a dining facility named "Cabaret", unilaterally decided to dismiss an entire complement of male servers and replace them with female servers. That employer's actions stemmed from a belief that "after attiring the replacements in alluring costumes, waitresses would better enhance petitioner's food sales volume." The court upheld the

Commissioner's Order that found the employer's actions were unlawful. *Guardian Capital Corp. v. New York State Div. of Human Rights (Plebani),* 46 A.D.2d 832 (3rd Dept. 1974) Respondents' argument that its "Thong Thursday" strategy is lucrative is "an argument without force if in fact they are in violation of the law. The prospect of loss of profits cannot justify illegal action." *Aromi, et.al. v Playboy Club, et.al.,* SDHR Case No.: 32986 (August 1, 1985) (quote from Commissioner's opinion that dismissed the verified complaint, in part, on grounds that Respondent established a BFOQ)

Lost Wage Damages

Respondent is liable for Complainant's lost wages in the amount of $6,547.50. Complainant mitigated his lost wage damages by searching for employment. Complainant found employment on November 29, 2010 driving a hotel courtesy vehicle on Monday, Tuesday and Saturday. Those days did not interfere or overlap with the Respondent's Thursday bartender position.

Respondents are also liable to Complainant for predetermination interest on the back pay award at a rate of nine percent per annum from July 14, 2011, a reasonable intermediate date between November 4, 2010 and March 22, 2012, through the date of the Commissioner's Final Order. *Aurrecchione v. New York State Division of Human Rights,* 98 N.Y.2d 21, 744 N.Y.S.2d 349 (2002).

Compensatory Damages

Human Rights Law § 297.4(c)(iii) entitles a successful Complainant to recover compensatory damages for the discriminatory actions of a Respondent. For compensatory damage awards, mental 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). Thus, it has been established that an award of compensatory damages to a person aggrieved by an illegal discriminatory act may include some compensation for mental anguish, which may be based solely on the complainant's testimony. *See Marcus Garvey Nursing Home Inc. v. New York State Div. of Human Rights*, 209 A.D.2d 619, 619 N.Y.S.2d 106 (2d Dept. 1994).

The severity, frequency, and duration of the conduct may be considered in determining an appropriate award for compensatory damages. *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). Similarly, a compensatory award for mental anguish damages must be 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' violation of the Human Rights Law had a negative effect on Complainant. Complainant testified that Respondents' failure to hire made him "question his qualifications" and whether he was "actually good enough to be a bartender." Complainant testified that this self questioning made him feel "stressed." There no evidence to suggest that Complainant's reaction to Respondents' conduct was long lasting. Complainant did not elaborate on the duration or frequency of his anguish.

Given the Respondents' conduct; the degree of Complainant's suffering; and the duration of Complainant's suffering; an award of $2,500 for emotional distress is appropriate and would effectuate the purposes of the Human Rights Law of making Complainant whole. *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 HRL); *Sevilla v. Gottlieb*, SDHR 10119299 (April 24, 2009) ($2,500 award based on Complainant's testimony that she "felt badly," "hurt" and "disrespected"); *Nuzzo v. Unlimited Childcare, Inc.*, SDHR 6841358 (February 15, 2006) ($2,500 award based on Complainant's testimony that she felt "very upset" and "hurt").

Civil Fines and Penalties

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."

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."

There are several factors that determine if civil fines and penalties are appropriate: 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*th 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)

A penalty of $1,000 is appropriate in this matter. *Jones v. NYS Office of Children & Family Services,* SDHR Case No. 10137251, November 15, 2007, ($1,000 civil fine); *Gostomski v. Sherwood Terr. Apts.*, SDHR Case Nos. 10107538 and 10107540, November 15, 2007,

($8,000 civil fine), *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); *also see, H.O.M.E., Inc. v. Mosovich,* SDHR Case No. 10118849 (February 5, 2009) ($5,000 civil fine); *Wilson-Shell v. Stennett,* SDHR Case No. 10113269, (November 30, 2007) ($25,000 civil fine); *Simmons v. Stern Properties,* SDHR Case No. 10105887, (June 27, 2007) ($10,000 civil fine).

The goal of deterrence; Respondents' degree of culpability; and the nature and circumstances of Respondents' violation warrant a penalty. Respondents cannot engage in a practice of hiring on the basis of gender. However, Respondents' actions are mitigated by a number of relevant factors. Respondents are a small employer that lacks the resources of a larger employer with trained personnel in the various areas of employment law. The evidence suggests that Respondents believed they were acting within the bounds of the law under the belief that they were using a legitimate approach to bolster their revenue.

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 further discrimination against any potential employee in its process of hiring; and it is further

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

1. Within sixty days of the date of the Commissioner's Final Order, Respondents, The Office, Inc., and Roy Dean, individually, shall pay to Complainant the sum of $6,547.50 as damages for lost wages. Interest shall accrue on this award at the rate of nine percent per annum, from July 14, 2011, a reasonable intermediate date between November 4, 2010 and March 22, 2012, until the date payment is actually made by Respondents.

2. Within sixty days of the date of the Commissioner's Final Order, Respondents, The Office, Inc., and Roy Dean, individually, shall pay to Complainant the sum of $2,500 as compensatory damages for mental anguish, pain, and suffering the Complainant suffered due to Respondents' unlawful discrimination. 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, The Office, Inc., and Roy Dean, individually, in the form of certified check, made payable to the order of Robert Starr, and delivered by certified mail, return receipt requested, to Complainant's attorney, Harvey P. Sanders, Esq., 401 Maryvale Drive, Cheektowaga, New York 14225. A copy of the certified checks 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.

4. Within sixty days of the Commissioner's Final Order, Respondents, The Office, Inc., and Roy Dean, individually, shall pay to the State of New York, the sum of $1,000 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.

5. The payment of the civil fine and penalty shall be made by Respondents, The Office, Inc., and Roy Dean, 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 New York State Division of Human Rights, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

6. Within sixty days of the Commissioner's Final Order, Respondents, The Office, Inc., and Roy Dean, individually, and all of Respondents' employees, shall receive training regarding the prevention of unlawful discrimination in accordance with the Human Rights Law. Proof of training 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, The Office, Inc., and Roy Dean, individually, shall cooperate with the representatives of the Division during any investigation into compliance with the directives contained in this Order.

DATED: July 31, 2012
Buffalo, New York

Martin Erazo, Jr.

Martin Erazo, Jr.
Administrative Law Judge