CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

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In the Matter of

COMMISSION ON HUMAN RIGHTS ex rel. CAROL T. and CINNAMON T.,

Petitioner,

-against-

MUTUAL APARTMENTS, INC., PRESTIGE MANAGEMENT INC., and SHIRLEY SMOOT,

Respondents.

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Complaint No.: M-H-D-14-1029651

OATH Index No. 2399/14

DECISION AND ORDER

The Law Enforcement Bureau of the New York City Commission on Human Rights (the "Bureau") initiated this housing discrimination case on behalf of Carol T. ("Carol") and her daughter Cinnamon T. ("Cinnamon") (together, "Complainants"),[1] by filing a Verified Complaint on December 19, 2013 ("Complaint"). The Complaint alleges that Mutual Apartments, Inc., the housing cooperative that owns the building where Complainants live, 636 Brooklyn Avenue, Brooklyn ("the building"), Prestige Management Inc., which manages the building, and Shirley Smoot, an employee of Prestige Management Inc. (collectively, "Respondents"), discriminated against Complainants by refusing to allow them to keep their emotional support dog, Swag, as a reasonable accommodation for their mental health disabilities. (ALJ Ex. 1, Compl. ¶¶ 2-4, 8-11, 13.) The Complaint premises its claim for failure to

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[1] As noted in the report and recommendation dated March 13, 2015 ("Report and Recommendation" or "R&R") the Complainants' full names have been redacted to protect their privacy related to their medical histories. *See, e.g., In re Comm'n on Human Rights ex rel. Carol T. v. Mutual Apartments, Inc.*, OATH Index No. 2399/14, R&R, 2015 WL 1431880, at *1 n.1 (Mar. 13, 2015) (collecting cases).

accommodate on violations of § 8-107(5) and § 8-107(15) of the New York City Human Rights Law ("NYCHRL"), codified as N.Y.C. Admin. Code Tit. 8. (ALJ Ex. 1 ¶ 13.)

A three-day administrative hearing was held at the Office of Administrative Trials and Hearings ("OATH") on September 16, October 28, and October 30, 2014. *Carol T.*, 2015 WL 1431880, at *1; (Tr. of OATH Hearing ("Tr.") at 1, 194, 305). In a comprehensive Report and Recommendation, the Honorable Judge Faye Lewis recommended that the Office of the Chair of the New York City Commission on Human Rights ("Commission"): (1) find that Respondents failed to provide Complainants with a reasonable accommodation for their disabilities by refusing to waive the building's no-dog rule; (2) impose damages and civil penalties against Mutual Apartments, Inc. and Prestige Management Inc. ("the corporate Respondents"), but not against Respondent Smoot; (3) award $40,000.00 in emotional distress damages to Carol against the corporate Respondents; (4) award $25,000.00 in emotional distress damages to Cinnamon against the corporate Respondents; (5) impose civil penalties of $25,000.00 against the corporate Respondents; (6) require that Respondents and all members of the Board of Directors for Mutual Apartments, Inc. undergo a training on the NYCHRL; (7) require that Respondents grant Complainants a waiver of the building's no-dog policy as a reasonable accommodation for their disabilities; (8) require that the corporate Respondents develop a written policy regarding how requests for accommodations should be handled; and (9) require that Respondents withdraw their eviction proceeding against Complainants. *Carol T.*, 2015 WL 1431880, at *17-21.

Respondents and the Bureau each submitted timely written comments and objections to the Report and Recommendation. *See* 47 RCNY § 1-76. For the reasons set forth in this Decision and Order, the Commission holds that the Respondents are liable for violating § 8-107(15) of the

NYCHRL[2] and orders that: (1) the corporate Respondents pay emotional distress damages of $40,000.00 to Carol and $30,000.00 to Cinnamon; (2) the corporate Respondents pay a civil penalty of $55,000.00; (3) the corporate Respondents grant Complainants an exception to the building's no-dog policy as a reasonable accommodation; (4) Respondent Mutual Apartments, Inc. withdraw the holdover proceeding against Complainants premised on Complainants' possession of a dog; (5) the corporate Respondents develop written policies for receiving and processing requests for reasonable accommodations for disabilities; (6) Respondents undergo training on the NYCHRL; and (7) the corporate Respondents post notices of rights in the building.

I. STANDARD OF REVIEW

In reviewing a report and recommendation, the Commission may accept, reject, or modify, in whole or in part, the findings or recommendations made by the administrative law judge. Though the findings of an administrative law judge may be helpful to the Commission in assessing the weight of the evidence, the Commission is ultimately responsible for making its own determinations as to the credibility of witnesses, the weight of the evidence, and other findings of fact. *In re Comm'n on Human Rights ex rel. Agosto v. Am. Constr. Assocs.*, OATH Index No. 1964/15, Am. Dec. & Order, 2017 WL 1335244, at *2 (Apr. 5, 2017); *In re Comm'n on Human Rights ex rel. Spitzer v. Dahbi*, OATH Index No. 883/15, Dec. & Order, 2016 WL 7106071, at *2 (July 7, 2016). The Commission is also tasked with the responsibility of interpreting the NYCHRL and ensuring the law is correctly applied to the facts. *See In re*

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[2] Claims for failure to accommodate a disability arise under § 8-107(15), not § 8-107(5), of the NYCHRL. *In re Comm'n on Human Rights ex rel. Blue v. Jovic,* OATH Index No. 1624/16, Dec. & Order, 2017 WL 2491797, at *10 n.6. Because the Bureau has not articulated any separate theory for disparate treatment based on disability, the claims against Respondents under § 8-107(5) are dismissed.

Comm'n on Human Rights v. Aksoy, OATH Index No. 1617/15, Dec. & Order, 2017 WL 2817840, at *4-5 (June 21, 2017); *Spitzer*, 2016 WL 7106071, at *2. Therefore, the Commission has the final authority to determine "whether there are sufficient facts in the record to support the Administrative Law Judge's decision, and whether the Administrative Law Judge correctly applied the New York City Human Rights Law to the facts." *N.Y.C. Comm'n on Human Rights v. Ancient Order of Hibernians in Am., Inc.*, Compl. No. MPA-0362, Dec. & Order, 1992 WL 814982, at *1 (Oct. 27, 1992); *see also In re Cutri v. N.Y.C. Comm'n on Human Rights*, 113 A.D.3d 608, 609 (2d Dep't 2014) ("As the Commission bears responsibility for rendering the ultimate determination, it was not required to adopt the recommendation of the Administrative Law Judge assigned to the proceeding . . ."); *In re Orlic v. Gatling*, 44 A.D.3d 955, 957 (2d Dep't 2007) ("it is the Commission, not the Administrative Law Judge, that bears responsibility for rendering the ultimate factual determinations"). The Commission reviews a report and recommendation and the parties' comments and objections *de novo* as to findings of fact and conclusions of law. *In re Comm'n on Human Rights ex rel. Stamm v. E&E Bagels*, OATH Index No. 803/14, Dec. & Order, 2016 WL 1644879, at *2 (Apr. 20, 2016)*; In re Comm'n on Human Rights ex rel. Howe v. Best Apartments, Inc.*, OATH Index No. 2602/14, 2016 WL 1050864, at *3 (Mar. 14, 2016); *In re Comm'n on Human Rights v. CU 29 Copper Rest. & Bar*, OATH Index No. 647/15, Dec. & Order, 2015 WL 7260570, at *2 (Oct. 28, 2015).

II. THE EVIDENTIARY RECORD

During the hearing, the Bureau presented testimony from seven witnesses: Complainant Carol; Complainant Cinnamon; Complainants' therapist, Helen Schwartz; Carol's psychologist, Dr. Ubaldo Leli; Respondent Shirley Smoot; Alex Heron, the president of the building's co-op board and a security guard at the building; and Gwendolyn Leary, another member of the

building's co-op board. Respondents presented testimony from one witness, Carol's estranged husband, Michael T.

The documentary evidence entered into the record includes: (1) the verified pleadings (ALJ Exs. 1 & 2); (2) post-hearing briefs submitted to Judge Lewis in lieu of closing statements at the hearing (ALJ Exs. 3 & 4); (3) treatment records for Complainants from therapist Ms. Schwartz (Bureau Exs. 1-3); (4) treatment records for Carol from Dr. Leli (Bureau Ex. 4); (5) an email exchange between Carol and Respondent Smoot on July 9, 2013 (Bureau Ex. 5); (6) a policy memorandum dated June 9, 2010, from the building's property manager to all residents concerning the prohibition on dogs (Bureau Ex. 6); (7) an affidavit by Mr. Heron dated December 27, 2013, which was submitted in support of Respondent Mutual Apartments, Inc.'s proceeding against Complainants in housing court (Bureau Ex. 7); (8) treatment records for Carol from internist Dr. Fong Lee (Bureau Ex. 8); (9) a 10-day notice to cure dated July 15, 2013, addressed to Carol and Michael T. (Bureau Ex. 9); (10) a letter from Dr. Fong Lee dated August 19, 2013, concerning Carol's need for a dog to cope with her depression (Bureau Ex. 10); (11) an email exchange between Carol and Respondent Smoot on June 3, 2014 (Bureau Ex. 11); (12) a letter dated October 31, 2013 from Carol's housing attorney to Respondents' attorney, attaching an August 1, 2013 letter from Ms. Schwartz recommending a dog to treat Carol's mental health conditions (Bureau Ex. 12); (13) medical records for Carol from SUNY Downstate Medical Center at Long Island College Hospital, associated with a panic attack that she experienced in April 2009 (Bureau Ex. 13); (14) treatment records for Carol from another therapist, Robert J. Sweeney (Bureau Ex. 14); (15) a photograph of the "No Dogs Allowed" sign at the entrance to the building (Resp'ts' Ex. A); and (16) housing court records from Respondent Mutual Apartments, Inc.'s holdover proceeding against Complainants (Resp'ts' Ex. B).

For purposes of this Decision and Order, familiarity with the hearing record and with Judge Lewis's Report and Recommendation is generally assumed. The relevant facts and evidence are described in the discussion below.

III. DISCUSSION

A. Legal Standard

The NYCHRL expressly provides that it "shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York State civil and human rights laws, including those laws with provisions comparably-worded to provisions of [the NYCHRL] have been so construed." N.Y.C. Admin. Code § 8-130. Pursuant to the Local Civil Rights Restoration Act of 2005, "[i]nterpretations of New York state or federal statutes with similar wording may be used to aid in interpretation of the New York City Human Rights Law, viewing similarly worded provisions of federal and state civil rights laws as a floor below which the City's Human Rights law cannot fall, rather than a ceiling above which the local law cannot rise." Local Law No. 85 (2005); *see also* Local Law No. 35 (2016). Similarly, case law interpreting analogous anti-discrimination statutes under state and federal law, though perhaps persuasive, is not precedential in the interpretation of the NYCHRL. *See Albunio v. City of N.Y.*, 23 N.Y.3d 65, 73 (2014) ("the New York City Council's 2005 amendment to the NYCHRL was, in part, an effort to emphasize the broader remedial scope of the NYCHRL in comparison with its state and federal counterparts and, therefore, to curtail courts' reliance on case law interpreting textually analogous state and federal statutes").

B. Respondents Failed to Provide Complainants with a Reasonable Accommodation, in Violation of § 8-107(15) of the NYCHRL

Section 8-107(15) of the NYCHRL applies to "any person prohibited by the provisions of [§ 8-107] from discriminating on the basis of disability." Among others, this includes persons

listed in § 8-107(5), such as "the owner . . . managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation . . . or any agent or employee thereof." N.Y.C. Admin. Code § 8-107(5)(a). Here, Mutual Apartments, Inc. is covered as the owner of a housing accommodation, Prestige Management Inc. is covered as the building's managing agent, and Shirley Smoot is covered as an employee of Prestige Management Inc.

Section 8-107(15) of the NYCHRL requires that covered entities, including housing providers, "make reasonable accommodation to enable a person with a disability to . . . enjoy the right or rights in question provided that the disability is known or should have been known by the covered entity." N.Y.C. Admin. Code § 8-107(15). "The term 'reasonable accommodation' means such accommodation that can be made that shall not cause undue hardship in the conduct of the covered entity's business." *Id.* § 8-102(18); *Stamm,* 2016 WL 1644879, at *6 ("An accommodation is only unreasonable if it causes an undue hardship."). The term "disability" is defined as "any physical, medical, mental or psychological impairment, or a history or record of such impairment," N.Y.C. Admin. Code at § 8-102(16)(a), and the term "physical, medical, mental, or psychological impairment" means:

> (1) An impairment of any system of the body[,] including, but not limited to: the neurological system; the musculoskeletal system; the special sense organs and respiratory organs, including, but not limited to, speech organs; the cardiovascular system; the reproductive system; the digestive and genito-urinary systems; the hemic and lymphatic systems; the immunological systems; the skin; and the endocrine system; or
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> (2) A mental or psychological impairment.

Id. §§ 8-102(16)(b)(1), (2).

To establish liability under § 8-107(15) of the NYCHRL, the Bureau must show that: (1) complainant has a disability; (2) respondent knew or should have known of the disability; (3) an accommodation would enable complainant to use or enjoy a housing accommodation; and (4) respondent refused to provide an accommodation. *See Stamm*, 2016 WL 1644879, at *6 (discussing places of public accommodation). A respondent has the burden of establishing undue hardship and that a reasonable accommodation is unavailable. *Id.*

1. Complainants Have Disabilities

The record robustly demonstrates that Complainants Carol and Cinnamon each suffer from disabilities within the meaning of the NYCHRL. Complainants first acquired Swag in April 2013. The Bureau presented hospital records for a panic attack that Carol experienced in April 2009. (*See* Bureau Ex. 13.) Carol's psychologist, Dr. Leli, testified that he began treating her in May 2009 and diagnosed her then with panic anxiety disorder with agoraphobia. (Tr. at 132:19-133:22.) Dr. Leli explained that agoraphobia is a type of panic anxiety disorder which involves "phobia of open spaces" including "difficulty leaving the enclosure of [one's] apartment." (Tr. at 130:18-24.) He testified that, although Carol's condition abated sufficiently at the end of 2009 such that she was able to pause treatment for a number of years, she returned for treatment in 2014, presenting with panic anxiety disorder and moderate depression. (*See id.* at 133:25-134:1.) Medical records from Carol's internist, Dr. Lee, indicate that as early as 2009 she was being treated for chronic problems including anxiety, depressive disorder, diabetes, and sleep apnea. (*See, e.g.*, Bureau Ex. 8 at 109, 139, 145.) Dr. Lee's treatment records also reflect that Carol was regularly taking Zoloft from as early as 2010. (*See, e.g., id.* at 129.) Carol's primary therapist since July 2013, Ms. Schwartz, and a second therapist, Mr. Sweeney, whom she started seeing in July 2014, each diagnosed Carol with anxiety and depression. (*See, e.g.*, Tr. at 30:3-20; Bureau

Ex. 2 at 51; Bureau Ex. 14 at 243-48.) In short, the record strongly supports a conclusion that Carol has disabilities within the meaning of the NYCHRL, including mental health disabilities that long pre-date her family's acquisition of a dog.

The record also shows that Cinnamon suffers from mental health disabilities within the meaning of the NYCHRL. She and her mother both testified that in 2005 Cinnamon suffered a bout of depression. (Tr. at 398:13-399:3, 418:24-419:22.) They further testified that the Brooklyn Mental Health Group where Cinnamon was treated in 2005 subsequently closed and, as a result, Complainants had been unable to obtain copies of Cinnamon's treatment records. (*Id.* at 398:13-399:3, 418:24-419:22.) Although Cinnamon's condition improved enough that she was able to stop treatment at the end of 2005, her depression and anxiety returned in or about 2011 or 2012. (*Id.* at 421:1-11.) Ms. Schwartz testified that she has been treating Cinnamon for depression, anxiety, and dependent personality disorder since July 2013. (Tr. at 35:3-6, 49:21-22.) According to Cinnamon, her mental health conditions make her feel "[n]ervous, shy, withdrawn, depressed; just very, very uncomfortable." (*Id.* at 418:8-9.) She feels this way "the majority of time" but "it comes and goes." (*Id.* at 418:10-11.) Cinnamon and both of her parents testified that she received Swag from her father in April 2013 to help her cope with her depression at the time. (*Id.* at 338:20-339:2.) As Carol explained, "Cinnamon was slipping back into a depressive state and we were extremely concerned. We, we tried medication that did not work for her. She became very suicidal, very sick. The dog was brought specifically for Cinnamon['s] mental needs." (*Id.* at 385:12-16, 467:11-12.) As a whole, the evidence demonstrates that Cinnamon has had a history of depression and anxiety and that she was experiencing depression at the time that Swag was introduced into her household. Contrary to Respondents' assertion, the absence of certain

historical treatment records for Cinnamon prior to July 2013 does not negate the other evidence of her recurrent disability. *See Johnson v. McCall*, 281 A.D.2d 730, 730 (3d Dep't 2001).

In short, the consistent, credible testimony from Complainants, Michael T., and Complainants' treatment providers, along with treatment records, confirm that Carol and Cinnamon each have disabilities within the meaning of the NYCHRL and that their disabilities pre-date 2013 when they acquired their dog.

2. Respondents Knew of Complainants' Disabilities

The record shows that Respondents knew of Complainants' disabilities.[3] Respondent Shirley Smoot is the property manager at Complainant's building. (Tr. at 162:9-22.) She testified that in July 2013 she was informed by Mr. Heron that Carol had a dog, against building policy. (*See id.* at 165:13-19.) Ms. Smoot then corresponded with Carol by email and Carol admitted to having the dog and indicated that the dog was for her daughter, who suffers from depression. (*See id.* at 165:13-21.) On July 9, 2013, Ms. Smoot emailed Carol after the two had spoken by phone and stated, "I spoke to the attorney and he stated you must go to court and prove your claim." (Bureau Ex. 5.) In response, Carol wrote back that Swag "provides mental therapy for me and my daughter Cinnamon. Mr. Heron has sighted our dog on a few occasions and I explained he was of service to our family." (*Id.*) Ms. Smoot responded "So, I guess, these are points you should bring up in court." (*Id.*) In other words, the record shows that by early July 2013, Respondents and their counsel were on notice that Complainants were asserting that they needed a dog as an accommodation for a disability.

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[3] The evidence would also support a finding that Respondents should have known of Complainants' disabilities.

During the hearing, Mr. Heron testified that he was the first person to spot Swag in the building, but stated that Carol never mentioned to him that her family needed the dog as an accommodation for a disability. (Tr. at 255:25-256:3.) That testimony is in direct conflict with a sworn statement dated December 27, 2013, submitted by Mr. Heron in support of holdover proceedings, in which he affirmed he "had extensive conversations" with Carol "regarding her harboring a dog" and she claimed that "her daughter required the dog as an emotional support animal." (*See* Bureau Ex. 7 at ¶ 7). Given the conflict in Mr. Heron's sworn statements on this matter, the Commission affords no weight to his testimony that Carol did not explain to him that her family needed Swag as an accommodation for a disability. Indeed, Mr. Heron's testimony at the hearing is not only in conflict with his own prior sworn statement, but also with Carol's credible testimony that she had spoken to him about the matter and her contemporaneous email of July 9, 2013 to Ms. Smoot to the same effect. (*See* Tr. at 346:10-12; Bureau Ex. 5.)

Given that courts have repeatedly held that a covered entity's refusal to even discuss a reasonable accommodation is highly probative of a claim of failure to provide a reasonable accommodation, *see Jacobsen v. N.Y.C. Health & Hosps. Corp.*, 22 N.Y.3d 824, 838 (2014) (holding that not engaging in an interactive process "poses a formidable obstacle to the employer's attempt to prove that no reasonable accommodation existed for the employee's disability"),[4] it is striking that Respondents continued to rebuff Complainants even after

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[4] Local Law 59 (2018), which was enacted after this case was filed and takes effect October 15, 2018, makes it a violation of the NYCHRL for a covered entity to fail to engage in a discussion concerning a reasonable accommodation. Such discussions are referred to as an "interactive process" under state and federal law and as a "cooperative dialogue" under the NYCHRL. Covered entities must engage in a cooperative dialogue "concerning the person's accommodation needs; potential accommodations that may address the person's accommodation needs, including alternatives to a requested accommodation; and the difficulties that such potential accommodations may pose for the covered entity." Failure to engage in a cooperative

Complainants directly notified Respondents' attorney of their need for a reasonable accommodation. Instead, when Carol's housing attorney provided Respondents' attorney with a letter from a treatment provider documenting Complainants' need for an emotional support dog and pointed out that such an accommodation is required under the NYCHRL (Bureau Ex. 12), Respondents' counsel pressed forward with the holdover proceeding without making any attempts to discuss a reasonable accommodation (*see* Tr. at 355:16-18).

3. An Emotional Support Dog Enables Complainants to Better Enjoy Their Rights to Their Home, Despite Their Disabilities

There is little question that Swag enables Complainants to use and enjoy their home as an accommodation for their disabilities. For example, Carol testified that feeding Swag in the morning helps to get her out of bed and on her way to work, whereas previously her depression caused her to sleep through the whole day. (*Id.* at 340:10-15.) Swag also sleeps with Carol, which helps her to cope with her anxiety attacks at night (*see id.* at 340:15-24), and helps her to stay focused and alert, despite the drowsiness that results as a side effect from her medications (*id.* at 341:4-8). Ms. Schwartz testified that Swag "soothes the emotional traumas" for Carol and assists with her day-to-day functioning. (*Id.* at 41:13.) She opined that without Swag, Carol would "end up with severe depression," "increase her symptomology" and "may lead to inpatient hospitalization." (*Id.* at 42:1-5, 43:4-5.) Dr. Leli also testified that if Carol were to lose her dog "her symptoms may worsen and the condition may worsen." (*Id.* at 137:15-22.)

Swag also helps to treat Cinnamon's depression and anxiety. As Cinnamon explained, in or about 2012, she "[d]idn't go out, stay[ed] inside, [] was depressed . . . miserable, crying." (*Id.* at 443:12-16.) In comparison, she explained that after getting Swag, "I have a job . . . I lost 40

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dialogue is an independent claim under the NYCHRL, regardless of whether a covered entity has also failed to provide a reasonable accommodation.

pounds, I run, I'm in shape, I'm very social." (*Id.* at 444:17-20.) "[I]nstead of trying to fill [the] void with alcohol or drugs," Cinnamon has Swag, who "keeps [her] motivated and positive and make[s her] a more responsible person." (*Id.* at 426:14-16.) She believes that if she were to lose Swag she would "probably end up in the situation [she] was in before," in deep depression. (*See id.* at 423:16-18.) Ms. Schwartz opined that without Swag, Cinnamon would likely be hospitalized due to mental health regression. (*See id.* at 53:8-16.)

In sum, the evidence shows that Complainants' dog mitigates their disabilities and helps them to better enjoy and use their home. Respondents argue that "the dog is not an accommodation for [Complainants] as they did not have any need to have the accommodation prior to obtaining it." (Resp'ts' Post-Trial Br., ALJ Ex. 4 at 12.) As a factual matter, that is incorrect. The record shows that Complainants did have a need for Swag as an emotional support animal at the time that Michael T. introduced the dog into the household. In any event, as a legal matter, Respondents' argument does not hold water. The NYCHRL does not place time limits on accommodations. Rather, the relevant inquiry is whether a reasonable accommodation would "enable a person with a disability to . . . enjoy the right or rights in question" – in this case, Complainants' right to enjoy the terms, conditions, privileges and services of their apartment building. N.Y.C. Admin. Code § 8-107(15); *see id.* § 8-107(5)(b). That is the standard and, in this case, the standard has been met.[5]

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[5] Respondents cite several cases where the evidence was held insufficient to require an emotional support animal as a reasonable accommodation – *In re One Overlook Ave. Corp. v. N.Y. State Div. of Human Rights*, 8 A.D.3d 286 (2d Dep't 2004), *In re Kennedy St. Quad, Ltd. v. Nathanson*, 62 A.D.3d 879 (2d Dep't 2009), and *In re 105 Northgate Co-op. v. Donaldson*, 54 A.D.3d 414 (2d Dep't 2008). (*See* Resp'ts' Post-Trial Br., ALJ Ex. 4 at 9.) Those cases are distinguishable from this case. First, in each of them, the reviewing court found that there was no supporting medical or psychological expert testimony, *One Overlook Ave. Corp.*, 8 A.D.3d at 287; *Kennedy St. Quad, Ltd.*, 62 A.D.3d at 880; *105 Northgate Co-op.*, 54 A.D.3d at 416, whereas here the Bureau has submitted expert testimony and treatment records concerning

4. Respondents Refused to Provide an Exception to the No-Dog Policy as an Accommodation for Complainants' Disability

Respondents do not dispute that they refused to permit Complainants to keep Swag as an accommodation for their disabilities. (*See* Resp'ts' Comments at 2; Resp'ts' Post-Trial Br., ALJ Ex. 4 at 2; *see also* Bureau Ex. 5.) Instead, Respondents moved to evict Complainants for possessing a dog. (*See* Resp'ts' Ex. B.)

5. Respondents Fail to Show that Providing an Exception to the No-Dog Policy Would Amount to an Undue Hardship

It is Respondents' burden to show that granting an exception to their no-dog policy would amount to an undue hardship. *Jacobsen*, 22 N.Y.3d at 835 ("un-like the State HRL, the City HRL places the burden on the employer to show the unavailability of any safe and reasonable accommodation and to show that any proposed accommodation would place an undue hardship on its business"). However, Respondents proffered no evidence or arguments to that effect and have thereby failed to carry their burden. In any event, testimony from Respondent Smoot and Mr. Heron establishes that the building already permits some residents to keep dogs that were grandfathered in prior to the roll-out of the current no-dog policy. (Tr. at 210:2-11; 265:8-16.)

Complainants' need for Swag as a reasonable accommodation. Second, the cases that Respondents cite concern reasonable accommodations under state law, which differs from and is more stringent than the standard for reasonable accommodations under the NYCHRL. *Compare* Exec. L. § 296(2) (making it an unlawful discriminatory practice "To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be *necessary* to afford a person with a disability equal opportunity to use and enjoy a dwelling") (emphasis added) *with* N.Y.C. Admin. Code § 8-107(15) (requiring covered entities to "make reasonable accommodation to *enable* a person with a disability to . . . enjoy the right or rights in question.") (emphasis added). As such, cases concerning insufficient evidence of liability under state law for reasonable accommodations do not provide much guidance when assessing liability under the NYCHRL. In any event, as discussed above, the evidence here strongly supports a finding that Swag enables Complainants to enjoy and use their home.

Under the circumstances, it is inconceivable that allowing Complainants a comparable exception would amount to an undue hardship.

For all the reasons discussed above, the Commission concludes that Respondents have violated § 8-107(15) of the NYCHRL by failing to provide Complainants a reasonable accommodation for their disabilities. *See, e.g.*, *Comm'n on Human Rights ex rel. L.D. v. Riverbay Corp.*, OATH Index No. 11-1300, Dec. & Order, 2012 WL 1657555, at *6-8 (Jan. 9, 2012) (holding that respondent violated the NYCHRL by denying resident an exception to building's no-pet policy that would allow her to keep her emotional support dog as a reasonable accommodation for her mental health disability).

IV. DAMAGES, CIVIL PENALTIES, AND REMEDIAL ACTION

Where the Commission finds that respondents have engaged in an unlawful discriminatory practice, the NYCHRL authorizes the Commission to order respondents to cease and desist from such practices and order such other "affirmative action as, in the judgment of the commission, will effectuate the purposes of" the NYCHRL. N.Y.C. Admin. Code § 8-120(a). The Commission may also award damages to complainants. *See id.* § 8-120(a)(8). In addition, the Commission may impose civil penalties of not more than $125,000.00, unless the "unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act," in which case a civil penalty of not more than $250,000.00 may be imposed. *Id.* § 8-126(a); *see In re Comm'n on Human Rights ex rel. Cardenas v. Automatic Meter Reading Corp.*, OATH Index No. 1240/13, Dec. & Order, 2015 WL 7260567, at *15 (Oct. 28, 2015) (finding $250,000.00 civil penalty appropriate where respondent engaged in willful and wanton sexual harassment over a three-year period). Civil penalties are paid to the general fund of the City of New York. N.Y.C. Admin. Code § 8-127(a).

A. Compensatory Damages

"Compensatory damages, including emotional distress damages, are intended to redress a specific loss that the complainant suffered by reason of the respondent's wrongful conduct," and should—insofar as monetary compensation can ever compensate for emotional harm—correspond to the complainant's specific injuries, as supported by the record. *See Howe,* 2016 WL 1050864, at *6. To support an award of emotional distress damages, the record "must be sufficient to satisfy the Commissioner that the mental anguish does in fact exist, and that it was caused by the act of discrimination." *Id.* An award for compensatory damages may be premised on the complainant's credible testimony alone, or other evidence including testimony from other witnesses, circumstantial evidence, and objective indicators of harm, such as medical evidence. *See Agosto*, 2017 WL 1335244, at *7 (collecting cases).

In light of the "strong anti-discrimination policy spelled out" in the NYCHRL, and because the rights afforded therein are "statutory and involve[] a vindication of a public policy as well as a vindication of a particular individual's rights," "an aggrieved individual need not produce the quantum and quality of evidence to prove compensatory damages" under the NYCHRL that would be required, for example, under traditional common law tort principles. *Batavia Lodge No. 196, Loyal Order of Moose v. N.Y. State Div. of Human Rights*, 359 N.Y.2d 143, 146-47 (1974) (discussing New York State Human Rights Law ("NYSHRL")); *see also Silverman v. City of N.Y. Comm'n of Human Rights*, 56 N.Y.2d 608, 609 (1982) (citing *Batavia Lodge*, 359 N.Y.2d 143, in support of award under NYCHRL). Thus, "[t]he fact that the damages are somewhat speculative and evanescent should not serve to limit the legislative authority vested in the Commissioner to make awards under the Human Rights Law." *Batavia Lodge No. 196, Loyal Order of Moose v. N.Y. State Div. of Human Rights*, 43 A.D.2d 807, 810

(4th Dep't 1973) (discussing NYSHRL). Nevertheless, "the evidence of emotional distress should be 'demonstrable, genuine, and adequately explained.'" *Town of Hempstead v. State Div. of Human Rights*, 233 A.D.2d 451, 453 (2d Dep't 1996) (discussing damages under the NYSHRL) (quoting *Price v. City of Charlotte*, 93 F.3d 1241, 1252 (4th Cir. 1996)).

The NYCHRL places no limitation on the size of compensatory damages awards. *See* N.Y.C. Admin. Code § 8-120(a)(8). When valuing compensatory damages in a particular case, the Commission assesses the nature of the violation, the amount of harm indicated by the evidentiary record, and awards that have been issued for similar harms. *See Sch. Bd. of Educ. of Chapel of Redeemer Lutheran Church v. N.Y.C. Comm'n on Human Rights*, 188 A.D.2d 653, 654 (2d Dep't 1992). Other factors that may be relevant to valuing emotional distress damages include "the duration of a complainant's condition, its severity or consequences, any physical manifestations, and any medical treatment." *N.Y.C. Transit Auth. v. State Div. of Human Rights*, 78 N.Y.2d 207, 218 (1991) (discussing damages under the NYSHRL).

In the Report and Recommendation, Judge Lewis recommends that the Commission award emotional distress damages of $25,000.00 to Cinnamon and $40,000.00 to Carol. *Carol T.*, 2015 WL 1431880, at *18-19. The Bureau endorses Judge Lewis's recommendation on damages (Bureau Comments at 2), while Respondents' comments state that the "civil and compensatory damages recommended by Judge Lewis are excessive, unsupported and unwarranted," noting that the building is a Mitchell-Lama limited profit co-op of moderate income residents (*see* Resp'ts' Comments at 8-9). Because the Bureau did not present evidence of Complainants' economic damages, damages here are limited to emotional distress damages.

1. Carol

Carol testified that she felt "[d]evastated" when Respondents first told her that she would have to go to court to prove her need to keep Swag. (Tr. at 348:1-3.) She further testified that Respondents' 10-day notice to cure sent her "into a panic" and left her feeling "anxious, depressed, nervous" and "devastated" (*id.* at 349:15-21; 350:17). Each of the "roughly three to four times" that Carol had to attend housing court to fight Respondent Mutual Apartments, Inc.'s holdover proceeding against her, she "suffered a[n] anxiety and panic attack" so intense she thought her heart "was going to give away." (*Id.* at 356:6-13.) Her psychiatrist, Dr. Leli, explained that such panic attacks typically manifest as "episodes of extreme anxiety with physical symptoms" including "shortness of breath . . . heart palpitations, sweating, [and a] sense of impending doom" so acute that patients "often go to the emergency room thinking that they have a heart attack." (*Id.* at 130:7-18.)

The evidence also shows that Respondents' discriminatory conduct directly caused a worsening of Carol's preexisting mental health conditions. Carol testified that this case and the possibility of losing Swag "really, really heightens [her] depression and anxiety" and causes her nightmares. (*Id.* at 361:24-362:4; *see also id.* at 390:15-16.) One of her therapists, Ms. Schwartz, testified that this case caused Carol to lose her appetite and become nervous and agitated, requiring her to increase her medications. (*Id.* at 44:22-45:7.) Dr. Leli similarly opined that the conflict over the dog worsened Carol's condition and contributed to her need to resume treatment under his care. (*Id.* at 152:17-23; 158:6-21.)

Based on the evidentiary record and a review of comparable cases, the Commission concludes that Carol should be awarded $40,000.00 in emotional distress damages. *See Becerril v. E. Bronx NAACP Child Dev. Ctr.*, No. 08-CIV-10283, 2009 WL 2972992, at *2-3 (S.D.N.Y.

Sept. 17, 2009) (awarding $50,000.00 where the plaintiff experienced emotional distress for several months which required medical treatment but improved with medication); *Kuper v. Empire Blue Cross & Blue Shield*, No. 99-CIV-1190, 2003 WL 359462, at *16-17 (S.D.N.Y. Feb. 18, 2003) (finding that a jury award of $62,500.00 did not shock the judicial conscience where plaintiff made multiple visits to the psychologist, broke down in tears during the trial, and offered evidence of the amount and duration of his distress); *In re State Div. of Human Rights v. ABS Elec.*, 102 A.D.3d 967, 969 (2d Dep't 2013) (upholding award of $50,000.00 where the complainant cried at home and during her lunch hour every day, struggled to get up in the morning to go to work, became depressed, suffered low self-esteem, and was negatively impacted in her relationships for an extended period of time); *Riverbay*, 2012 WL 1657555, at *8-11 (awarding $50,000.00 where respondent's discrimination considerably worsened the complainant's underlying mental health condition, causing "flashbacks, nightmares, crying spells, [and] dissociation" that left her nearly incapacitated and caused her suicidal ideations); *accord In re State v. N.Y. State Div. of Human Rights*, 284 A.D.2d 882, 883-84 (3d Dep't 2001) (concluding that award of $50,000.00 was "reasonably related to the wrongdoing" of sex discrimination, but reducing the award based on the "absence of any proof of the severity and consequence of [the plaintiff's] condition" including a lack of objective medical evidence).

2. Cinnamon

Cinnamon testified that Respondents' actions made her feel "nervous, devastated, scared and just horrible," causing her panic attacks, although there is no evidence concerning the frequency of those attacks. (Tr. at 428:13-17.) She also testified that she had difficulty sleeping, her depression returned, she became angry, and she experienced suicidal thoughts. (*Id.* at 427:7-

11.) She worried about losing Swag "[e]very day, every hour of the day" to the extent that sometimes she was unable to focus on anything else. (*Id.* at 430:22-24.)

Her testimony was corroborated by her therapist, Ms. Schwartz, who testified that Respondents' conduct left Cinnamon feeling isolated and unable to get out of bed. (*Id.* at 68:2-10.) According to Ms. Schwartz, in therapy Cinnamon described feeling victimized by Respondents and stated, "I can't take this." (*Id.* at 52:2-6.) Ms. Schwartz further testified that Cinnamon had difficulty sleeping and reported being scared by Respondents' conduct. (*Id.* at 56:16-17; *see also* Bureau Ex. 3 at 0078.) While Cinnamon received therapy, she did not take medication to treat her condition. (*Id.* at 440:18-19.)

In comparison with her mother, it is less clear how much of Cinnamon's emotional distress may be directly attributed to Respondents' conduct. While it is unambiguous that Respondents caused Cinnamon significant emotional harm, the record shows that Cinnamon was experiencing severe depression and anxiety shortly before the dispute with Respondents began and that her condition subsequently improved, thanks to the healing presence of her dog. Although the fight with Respondents over the dog clearly caused Cinnamon adverse emotional consequences, at least part of her emotional distress still appears to be attributable to her preexisting condition. In light of this ambiguity, a somewhat lesser award of emotional distress damages is appropriate for Cinnamon than for Carol. *See Greenville Bd. of Fire Comm'rs v. N.Y. State Div. of Human Rights*, 277 A.D.2d 314, 314-15 (2d Dep't 2000) (remitting jury award where plaintiff's mental anguish manifested itself as irritable bowel syndrome and amenorrhea but where "the record also indicate[d] that the irritable bowel syndrome could have been a preexisting condition").

Based on a review of cases involving comparable evidence of emotional distress, the Commission concludes that Cinnamon should be awarded $30,000.00 in emotional distress damages. *See Laboy v. Office Equip. & Supply Corp.*, No. 15-CIV-3321, R&R, 2016 WL 5462976, at *12 (S.D.N.Y. Sept. 29, 2016), *adopted*, 2016 WL 6534250 (S.D.N.Y. Nov. 2, 2016) (awarding $25,000.00 on a default where his employer's race discrimination and retaliation caused plaintiff to "suffer[] an anxiety attack, loss of appetite, insomnia, depression, mental strain and low self-esteem"); *Joseph v. HDMJ Rest., Inc.*, 970 F. Supp. 2d 131, 154 (E.D.N.Y. 2013) (awarding emotional distress damages of $30,000.00 where plaintiff testified that she suffered "humiliation, irritability, weight loss, severe anxiety and depression" that continued to the date of judgment); *In re ISS Action Sec. v. N.Y.C. Comm'n on Human Rights*, 114 A.D.3d 943, 944 (2d Dep't 2014) (upholding emotional distress award of $20,000.00).

B. Civil Penalties

Judge Lewis recommended a civil penalty of $25,000.00 in this case, citing to *Riverbay* as a guide. *Carol T.*, 2015 WL 1431880, at *20-21. The Bureau argues the penalty should be increased to $30,000.00 based on Respondents' size (the building has 160 units with 700-800 residents), lack of a formal policy for handling requests for reasonable accommodations, and the fact that Respondents refused to engage with Complainants in a discussion about their need for a reasonable accommodation. (Bureau Comments at 7-8.) Respondents contend that the recommended civil penalty is excessive since the building is a limited profit co-op of middle-income residents. (Resp'ts' Comments at 8-9.) Respondents also dispute Judge Lewis's reliance

on *Riverbay* to support her penalty recommendation, arguing that any penalty should be based on higher state court authority. (*Id.* at 8-9.)[6]

In assessing whether the imposition of civil penalties will vindicate the public interest, the Commission may consider several factors, including, but not limited to: (1) respondent's financial resources; (2) the sophistication of respondent's enterprise; (3) respondent's size; (4) the willfulness of the violation; (5) the ability of respondent to obtain counsel; and (6) the impact on the public of issuing civil penalties. *See, e.g., In re Comm'n on Human Rights v. A Nanny on the Net*, OATH Index Nos. 1364/14 & 1365/14, Dec. & Order, 2017 WL 694027, at *8 (Feb. 10, 2017); *CU 29 Copper Rest. & Bar*, 2015 WL 7260570, at *4. The Commission also considers the extent to which respondent cooperated with the Bureau's investigation and with OATH, *see, e.g., A Nanny on the Net*, 2017 WL 694027, at *9; *Howe*, 2016 WL 1050864, at *8; *Cardenas*, 2015 WL 7260567, at *15; *In re Comm'n on Human Rights v. Crazy Asylum*, OATH Index Nos. 2262/13, 2263/13, 2264/13, 2015 WL 7260568, at *6 (Oct. 28, 2015), as well as the amount of remedial action that respondent may have already undertaken, *see, e.g., A Nanny on the Net*, 2017 WL 694027, at *8; *CU 29 Copper Rest. & Bar*, 2015 WL 7260570, at *4 (holding "civil penalties are not necessary to deter Respondents from future violations of the NYCHRL, as they have committed to publishing advertisements that comply with the law").

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[6] The Commission has reviewed the cases cited by Respondents in their post-trial brief, but concludes that they are inapposite since they concern the issue of liability under state law, not the appropriateness of penalties. *See Kennedy St. Quad, Ltd.*, 62 A.D.3d at 880; *105 Northgate Co-op.*, 54 A.D.3d at 416; *One Overlook Ave. Corp.*, 8 A.D.3d at 287; *Landmark Properties*, 5 Misc. 3d at 21.

1. Respondents' Size, Sophistication, Financial Resources and Ability to Obtain Counsel

The record indicates that the corporate Respondents run a sophisticated business enterprise, weighing in favor of larger civil penalties. The building is a limited-profit, Mitchell Lama cooperative apartment building containing 159 units and housing approximately 700 to 800 residents. (Tr. at 231:10-21; Bureau Ex. 7 at ¶ 3.) While not the largest of housing providers in New York City, the corporate Respondents are large and their conduct impacts a sizeable number of New York City residents. *See 119-121 E. 97th St. Corp. v. N.Y.C. Comm'n on Human Rights*, 220 A.D.2d 79, 80 (1st Dep't 1996) (noting that public interest would be impacted to a great extent if landlord's actions "affected hundreds, if not thousands, of individuals"). Respondents also have the means to know and understand the laws applicable to their business.

2. Willfulness of the Violations and Remedial Action Already Taken by Respondents

The corporate Respondents' violation of the NYCHRL was also willful. On multiple occasions, Complainants endeavored to engage Respondents in discussions about an accommodation and were consistently rebuffed. The corporate Respondents refused to discuss the possibility of an accommodation and attempted to plug their ears and cover their eyes when faced with medical evidence of Complainants' need for an emotional support dog, indicating that they acted willfully and contumaciously in refusing Complainants request for an accommodation.[7] There is, moreover, no evidence that the corporate Respondents have taken any steps to remedy their discriminatory conduct or to develop policies for the proper handling of

[7] In contrast, Respondent Smoot does not appear to have willfully discriminated against Complainants, but rather acted in reliance on the advice of counsel and at the behest of the co-op board.

requests for disability accommodations. These considerations weigh in favor of a heightened civil penalty.

3. Respondents' Cooperation With the Investigation and Hearing Process

There is no indication that civil penalties should be augmented based on a lack of cooperation by Respondents in the investigation or hearing processes.

4. Impact of Civil Penalties on the Public

There is an important need for civil penalties to vindicate the public interest in this case. As noted above, there are a large number of New York City residents who live in the building who are likely to be impacted by Respondents' discriminatory actions and lack of appropriate policies for receiving and processing requests for disability accommodations. In addition, it is essential to reinforce protections under the NYCHRL for individuals with mental health disabilities. Unfortunately, mental health disabilities continue to carry significant social stigma and, as in this case, individuals with such disabilities often face substantial and unwarranted opposition to their need for reasonable accommodation. *See, e.g.*, CDC, *Attitudes Toward Mental Illness --- 35 States, District of Columbia, and Puerto Rico, 2007*, 59(20) MMWR 619-625 (May 28, 2010); Lindsay Holmes, *Let's Call Mental Health Stigma What It Really Is: Discrimination*, Huffingtongpost.com (Feb. 17, 2017) ("The societal outlook on mental illness doesn't just result in negative stereotyping . . . It results in behavior and policy that actually make life more difficult for those with mental health challenges."); Graham C.L. Davey, *Mental Health & Stigma*, Psychology Today (Aug. 20, 2013) ("stigma also has a detrimental affect on treatment outcomes, and so hinders efficient and effective recovery from mental health problems."). It is essential that covered entities take seriously their obligation to reasonably accommodate mental health

disabilities and afford appropriate respect and credence to individuals seeking such accommodations.

Here, the corporate Respondents' incredulously dismissed the Complainants' request and stubbornly pushed to evict them from their home, even after Complainants provided Respondents with supporting documentation from their treatment providers and after Complainants' housing attorney reminded Respondents of their legal obligations under the NYCHRL. The hearing transcript and briefing submitted by the Respondents also reveal the corporate Respondents' disdain for and indifference to Complainants' well-documented need for an accommodation. Under the circumstances, strong civil penalties are appropriate in this case.

Taking into consideration the corporate Respondents' size, restrictions on the building's income as a Mitchell-Lama building, the willfulness of Respondents' violations, the duration of their violations, the impact that penalties will have on the public, and awards in comparable cases, the Commission concludes that a civil penalty of $55,000.00 should be imposed. *See 119-121 E. 97th St. Corp.*, 220 A.D.2d at 88-89 (reducing civil penalty to about $39,000.00, adjusted for inflation, for housing provider with 50 units, concluding "the public interest was not affected to the much greater extent it would have been had petitioners been large landlords whose actions affected hundreds"); *Blue*, 2017 WL 2491797, at *17 (imposing civil penalty of $60,000.00 where housing provider with 12 units was found to have willfully discriminated by engaging in a campaign of harassment over several years and failing to accommodate a disability), *aff'd sub nom. Jovic v N.Y.C. Comm'n on Human Rights*, Index No. 100838/2017 (Sup. Ct. N.Y. Cnty. Feb. 14, 2018); *In re Russell v. Chae Choe*, OATH Index No. 09-1021033, Dec. & Order, 2009 WL 6958753 (Dec. 10, 2009) (imposing civil penalty of about $58,000, adjusted for inflation, where respondent refused to provide an accommodation over a one-year period).

The Commission agrees with Judge Lewis that civil penalties and damages should only be imposed against the corporate Respondents, not against Respondent Smoot. As Judge Lewis observed, "Ms. Smoot appears to have considered entertaining Carol's request to keep the dog" and acted on the instructions of the co-op board and Respondents' counsel in failing to engage Complainants in further discussions about an accommodation. *Carol T.*, 2015 WL 1431880, at *21. The Commission finds that, in contrast with the corporate Respondents, Respondent Smoot's violations of the NYCHRL were not willful and the public interest will be best served by requiring her to undergo anti-discrimination training rather than pay financial penalties.

C. Remedial Action

The corporate Respondents are required to make a reasonable accommodation for Complainants' disabilities by granting them an exception to the building's no-dog policy. Respondent Mutual Apartments, Inc. is further directed to withdraw the holdover petition that was filed based on Complainants' possession of a dog. (*See* Resp'ts' Ex. B); *cf. In re Mishalove v. 109 St. Marks Place, Inc.*, Compl. No. 62 581-H, Dec. & Order, 1981 WL 178907, at *8 (Nov. 6, 1981) (requiring renewal of lease after respondents filed discriminatory eviction proceedings).

In addition, the corporate Respondents must develop written internal policies for receiving and processing requests for reasonable accommodations. *See, e.g., In re DaSilva v. N.Y. Racing Ass'n*, Compl. Nos. E95-0668 & 16F-95-0141, Dec. & Order, 1996 WL 1058249, at *13 (Apr. 16, 1996). The corporate Respondents must remove the "No Dogs" sign at the building entrance and replace it with a sign that makes clear that exceptions to the no-dog policy are

permitted for reasonable accommodations.[8] The corporate Respondents must also post a general notice of rights in the entrance to the building, as set forth below.

The Commission has frequently required individuals who have been found liable for violations of the NYCHRL to attend Commission-led trainings to strengthen their understanding of their obligations under the law. *See, e.g., Spitzer,* 2016 WL 7106071, at *10; *In re Comm'n on Human Rights ex rel. Jordan v. Raza*, OATH Index No. 716/15, 2016 WL 7106070, at *11 (July 7, 2016); *Stamm*, 2016 WL 1644879, at *11. As set forth below, all of the Respondents are required to attend such a training.

V. CONCLUSION

FOR THE REASONS DISCUSSED HEREIN, IT IS HEREBY ORDERED that Respondents immediately cease and desist from engaging in discriminatory conduct.

IT IS FURTHER ORDERED that no later than 60 calendar days after service of this Order, Respondent Mutual Apartments, Inc. and Respondent Prestige Management Inc. pay Complainant Carol $40,000.00 in emotional distress damages, by sending to the New York City Commission on Human Rights, 22 Reade Street, New York, New York 10007, Attn: Recoveries, a bank certified or business check made payable to Carol [redacted], including a written reference to OATH Index No. 2399/14.

IT IS FURTHER ORDERED that no later than 60 calendar days after service of this Order, Respondent Mutual Apartments, Inc. and Respondent Prestige Management Inc. pay Complainant Cinnamon $30,000.00 in emotional distress damages, by sending to the New York City Commission on Human Rights, 22 Reade Street, New York, New York 10007, Attn:

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[8] An acceptable modification would be: "Assistance Animals Welcome. Unfortunately, No Other Dogs Allowed."

Recoveries, a bank certified or business check made payable to Cinnamon [redacted], including a written reference to OATH Index No. 2399/14.

IT IS FURTHER ORDERED that no later than 60 calendar days after service of this Order, Respondent Mutual Apartments, Inc. and Respondent Prestige Management Inc. pay a civil penalty of $55,000.00 to the City of New York, by sending to the New York City Commission on Human Rights, 22 Reade Street, New York, New York 10007, Attn: Recoveries, a bank certified or business check made payable to the City of New York, including a written reference to OATH Index No. 2399/14.

IT IS FURTHER ORDERED that Respondent Mutual Apartments, Inc. promptly withdraw its holdover proceeding against Complainants premised on their possession of a dog.

IT IS FURTHER ORDERED that no later than 60 calendar days after service of this Order, Respondent Mutual Apartments, Inc. and Respondent Prestige Management Inc. develop written internal policies for receiving and processing requests for reasonable accommodations.

IT IS FURTHER ORDERED that no later than 60 calendar days after service of this Order, Respondent Smoot, all members of the board of Respondent Mutual Apartments, Inc., and all management personnel at Respondent Prestige Management Inc. must register for a Commission-led training on the NYCHRL, to be completed no later than 120 days after service of this Order. A schedule of available trainings may be obtained by calling the Director of Training and Development at (212) 416-0193 or emailing trainings@cchr.nyc.gov.

IT IS FURTHER ORDERED that no later than 60 calendar days after service of this Order, Respondents remove the "No Dogs" sign at the entrance of 636 Brooklyn Avenue, Brooklyn, New York, or replace it with a sign that makes clear that exceptions to the no-dog policy are permitted for reasonable accommodations.

IT IS FURTHER ORDERED that within 60 calendar days of service of this Order, and for a period of no less than two (2) years, Respondents conspicuously post a copy of the enclosed notice of rights in the entrance of 636 Brooklyn Avenue, Brooklyn, New York.

Failure to timely comply with any of the foregoing provisions shall constitute non-compliance with a Commission Order. In addition to any civil penalties that may be assessed against them, Respondents shall pay a civil penalty of $100.00 per day for every day the violation continues. N.Y.C. Admin. Code § 8-124. Furthermore, failure to abide by this Order may result in criminal penalties. *Id.* § 8-129.

Dated: New York, New York
April 12, 2018

SO ORDERED:

New York City Commission on Human Rights

Carmelyn P. Malalis
Commissioner/Chair