



Company ("Respondent"), alleging that Respondent violated the New Jersey Family Leave Act (NJFLA), N.J.S.A. 34:11B-1 et seq., when it terminated her employment; and

WHEREAS, Respondent denied, and continues to deny, the allegations in the Verified Complaint; and

WHEREAS, DCR conducted an investigation of the allegations contained in the Verified Complaint, following which the Director of the Division on Civil Rights (the "Director") found probable cause to credit the allegations of the Verified Complaint; the Director also found probable cause that Respondent's actions constituted unlawful discrimination on the basis of pregnancy, gender and disability in violation of the New Jersey Law Against Discrimination ("LAD"), as set forth in the Finding of Probable Cause on January 27, 2017; and

WHEREAS, it is now the intention of the parties to this action to amicably resolve the differences and disputes that exist or may exist between them in order to avoid the time and expense of a public hearing;

NOW, THEREFORE, it is on this 10<sup>th</sup> day of Nov, 2017

ORDERED and AGREED as follows:

**LAD COMPLIANCE**

1. Respondent agrees that it shall not engage in any act prohibited by the LAD or NJFLA, including any retaliatory conduct against Complainant, Complainant's family, or against any witness or participant in these proceedings, or allow any of its employees or agents to engage in any such conduct.

2. Respondent shall display conspicuous notice of an employee's rights and obligations pursuant to the LAD and NJFLA. Respondent agrees to comply with all applicable posting and notice requirements for employers, including but not limited to the requirements set forth in N.J.A.C. 13:8-1.2 and N.J.A.C. 13:8-2.2.

### **MONETARY RELIEF**

3. Respondent shall pay to Complainant Ashley M. Ruiz-Lopez the total sum of Sixty Thousand Dollars (\$60,000.00) in settlement of all claims and damages arising from the allegations set forth in the Verified Complaint and Finding of Probable Cause. Of this settlement amount, Twenty Thousand Dollars (\$20,000.00) shall be considered as recovery of lost wages and Forty Thousand Dollars (\$40,000.00) shall be considered damages for alleged pain and suffering.

4. Respondent shall make the payment described in paragraph 3 by check(s) made payable to Ashley M. Ruiz-Lopez, which shall be forwarded within twenty (20) days of the complete execution of this Consent Order to Carlos Bellido, Chief of Staff, ("Chief of Staff Bellido"), Division on Civil Rights, 31 Clinton Street, 3rd floor, P.O. Box 46001, Newark, New Jersey 07102. DCR shall record receipt of the check(s) which will then be delivered by DCR to Complainant.

5. Respondent shall provide Complainant with appropriate tax documentation for the settlement amounts, including a W-2 form for the sum attributed to lost wages and a Form 1099 for the sum attributed to pain and suffering damages. Complainant is responsible for paying appropriate taxes on the settlement amount.

6. Although not admitting any liability in this matter, Respondent agrees to pay to DCR the total sum of Ten Thousand Dollars (\$10,000.00) in resolution of this matter. Respondent shall make this payment by check payable to the Treasurer of the State of New Jersey, which shall be forwarded within twenty (20) days of the complete execution of this Agreement to Carlos Bellido, Chief of Staff, (Chief of Staff Bellido)<sup>1</sup> Division on Civil Rights, 31 Clinton Street, 3rd floor, P.O. Box 46001, Newark, New Jersey 07102.

### **POLICIES AND TRAINING**

7. Respondent shall conduct a comprehensive review of its policies and procedures that relate to maternity leave, family leave, pregnancy and/or disability to ensure such policies are in compliance with the NJFLA and LAD, and shall revise each such policy as necessary. This review shall be completed within sixty (60) days of the execution of this agreement. As part of this review, Respondent shall ensure that, at a minimum, its policies and procedures contain provisions addressing the following:

a. An explanation of what is covered under the NJFLA, along with an explanation of the differences between the NJFLA and the Federal Family and Medical Leave Act (FMLA), and under what circumstances leave under NJFLA will run concurrently with leave under the FMLA and under what circumstances it would run consecutively;

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<sup>1</sup> All submissions to Chief of Staff Bellido shall be via mail.

b. The procedure to follow to request leave under the NJFLA or FMLA, including the identification of the employee to be contacted regarding requests for NJFLA or FMLA, or for questions about leave under the Acts;

c. An explanation of how Respondent will maintain as confidential any information obtained in connection with a request for leave under either NJFLA or FMLA; and

d. An explanation of the LAD's anti-discrimination provisions based on pregnancy and disability;

e. A provision explaining that employees and/or applicants for employment who are pregnant and/or have a disability may request reasonable accommodations. This section should further identify the employee to be contacted regarding requests for accommodation, how Respondent will address a request for accommodation, and how Respondent will maintain as confidential any information obtained in connection with a request for accommodation; and

f. A provision specifying that is a violation of the NJFLA and/or the LAD to retaliate and/or otherwise discriminate against an individual for exercising his/her rights pursuant to the NJFLA or LAD.

8. Respondent shall forward a copy of the policies referred to in paragraph 7, as modified, to Chief of Staff Bellido, within thirty (30) days of the completion of the review set forth in paragraph 7, supra.

9. The policies referenced in paragraph 7 and 8 shall be disseminated to all employees in New Jersey within ninety (90) days of the full execution of this agreement, and shall otherwise be maintained in a manner that is readily available to Respondent's employees. Respondent shall notify employees whenever one of the policies referenced in paragraphs 7 and

8 are modified. Respondent shall also maintain a copy of the policies referenced in paragraph 7 together with other employee policies in a readily accessible location in any store, facility or location operated by Respondent in New Jersey. Respondent agrees to conduct training for its employees as necessary to ensure all employees are aware of the policies referenced in paragraph 7, including the procedures for requesting leave or reasonable accommodation.

10. Respondent agrees to train in an interactive manner its supervisors, managers, human resource personnel, and any individuals designated by Respondent to process requests for NJFLA or reasonable accommodations based on pregnancy or disability, on the requirements of the LAD and NJFLA, as well as the policies outlined in paragraphs 7 and 8.

11. The training required by paragraph 10, supra, shall include, but not be limited to the following:

a. An understanding of the Respondent's revised policies and procedures as referenced in paragraphs 7 and 8;

b. An understanding of the NJFLA, including an understanding of the similarities and the differences between the NJFLA and FMLA;

c. An understanding of the LAD and the types of conduct that would be considered unlawful discrimination covered by the LAD;

d. An understanding of Respondent's obligation to provide reasonable accommodation for disability and pregnancy, including how to recognize a request for reasonable accommodation, and how such requests should be processed;

e. An understanding of what may constitute a reasonable accommodation and the employer's and employee's obligations to engage in an interactive process in good faith to address an accommodation request;

f. An understanding of what may constitute an undue burden as it relates to a requested accommodation and the appropriate manner to evaluate if a requested accommodation constitutes an undue burden;

g. An understanding of how records related to an employee's disability and/or an accommodation request should be maintained by the employer in a confidential manner; and

h. An understanding that it is a violation of the LAD and NJFLA to retaliate and/or otherwise discriminate against an individual for exercising his/her rights pursuant to the LAD and/or NJFLA.

12. All training required by paragraph 11 shall be completed within six (6) months of the effective date of this Agreement. Each individual who participates in training and receives instruction is to sign a statement acknowledging that he or she has participated in, understands, and has completed the training course. If Respondent's training is conducted by a private firm, Respondent shall submit an outline of the subject matter being covered and provide a copy of any materials used in these sessions, including but not limited to handouts and any Power Point

slides, to Chief of Staff Bellido for review prior to training. Respondent will notify DCR of when training is to occur and will also permit one or more representatives of DCR to attend any or all sessions.

### **MONITORING**

13. For a period of one year following the execution of this Consent Order (hereafter referred to as the "Monitoring Time Period"), DCR shall monitor Respondent's practices to ensure compliance with this agreement, the LAD and the NJFLA.

14. Within sixty (60) days of the effective date of this Consent Order, Respondent shall establish a system for maintaining a record of all requests for accommodation due to disability and/or pregnancy. These records shall include, at minimum, the names and contact information (address, phone number, and e-mail address if applicable) for the individual(s) seeking an accommodation, a description of the accommodation sought, any information or documents supplied by the person seeking the accommodation in support of the request, and any determination by Respondent addressing the requested accommodation. Respondent shall allow a DCR representative to review the documentation upon request. If DCR requests the ability to review documentation than DCR and Respondent will schedule a mutually convenient time to meet and review the applicable documentation. However, in the event that DCR and Respondent are unable to agree on a mutually convenient time and place, than Respondent shall provide DCR with copies of the requested documentation within 30 days of the request by DCR. Alternatively, Respondent may provide DCR with copies of the documents no later than 30 days



after notice by DCR. However, if DCR determines that the circumstance warrant immediate review Respondent shall work with DCR to provide the agency with the requested information.

15. Within sixty (60) days of the effective date of this Consent Order, Respondent shall establish a system for maintaining a record of requests for leave due to disability, pregnancy or for any reason covered by the NJFLA. These records shall include, at minimum, the names and contact information (address, phone number, and e-mail address if applicable) for the individual(s) requesting the leave, a description of the length and nature of the leave sought, accommodation sought, any information or documents supplied by the person seeking the leave in support of the request, and any determination by Respondent addressing the requested leave. Respondent shall allow a DCR representative to review the documentation upon request.

16. Respondent shall provide DCR, via Chief of Staff Bellido, with two separate reports during the Monitoring Time Period. The first report should be provided within six-months of the complete execution of the Consent Order by the Director of DCR, and the second report shall be provided six months after the first. At a minimum, the report is to include the following information: (1) the number of accommodation requests received, with a breakdown of how many requests were for a disability and how many for a pregnancy; (2) the number of the accommodations requests granted; (3) the number of accommodation requests where an alternative accommodation was provided; (4) the number of accommodation requests where the accommodation request was denied; (5) the number of requests for leave received related to NJFLA or FMLA; (6) the number of leave requests granted in full as requested; (7) the number of leave requests granted for time less than requested; and (8) the number of requests that were denied.

## GENERAL PROVISIONS

17. Nothing in this Consent Order shall in any manner be construed to limit or affect the rights of any persons, other than the parties to this Consent Order, who may have a claim against Respondent or any individual or entity involved in this matter.

18. The parties to this Consent Order acknowledge that for the purpose of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

19. As used in this Consent Order, the plural shall include the singular and the singular shall include the plural. In addition, “or” and “and” shall be interpreted conjunctively.

20. This Consent Order constitutes the entire agreement between the Director, Complainant, and Respondent. Any addition, deletion, or change to this Consent Order must be in writing and signed by all parties to be bound by such addition, deletion, or change.


21. The parties to this Consent Order have negotiated and fully reviewed its terms. Uncertainty or ambiguity shall not, therefore, be construed against the drafter.

22. This Consent Order is executed in settlement of the allegations made against Respondent in the above-captioned matter, and shall not be construed to otherwise limit the authority of the New Jersey Attorney General or the Director of the New Jersey Division on Civil Rights to protect the interests of the State of New Jersey or the people of the State of New Jersey.

23. If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

30. The parties to this Consent Order represent that a person authorized to sign a document legally binding each party to its terms has signed this Consent Order with full knowledge, understanding, and acceptance of its terms.

31. Any signature for the entry of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same Consent Order.



CRAIG SASHIHARA  
DIRECTOR, NEW JERSEY DIVISION ON  
CIVIL RIGHTS

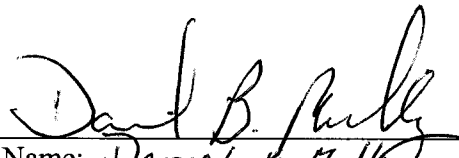
Jointly Approved and Submitted for Entry:

For Complainants:

By:   
Ashley M. Ruiz-Lopez

DATED: 08/17/2017

For Respondent:

By:   
Name: Daniel B. M. Lopez  
Title: General Manager

DATED: 8-1-17

