CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

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In the Matter of

COMMISSION ON HUMAN RIGHTS
ex rel. CARLOS RODRIGUEZ,

Petitioner,

-against-

A PLUS WORLDWIDE LIMO, INC.
and JOHN LEONARDI,

Respondents.

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Complaint No. M-P-D-12-1025448
OATH Index No. 905/15

DECISION AND ORDER

On January 19, 2012, Complainant Carlos Rodriguez filed a verified complaint ("Complaint") with the Law Enforcement Bureau of the New York City Commission on Human Rights ("Bureau"), alleging that respondents Plaza Town Cars a/k/a A Plus Worldwide Limo Inc. and "John Doe" violated §§ 8-107(4) and 8-107(15) of the New York City Human Rights Law ("NYCHRL") by refusing to provide Complainant with Access-A-Ride[1] car service because of the presence of his service dog. (Bureau Ex. 1 at ¶¶ 11-12.) Through counsel, A Plus Worldwide Limo Inc. ("A Plus") filed a verified answer on February 13, 2012 ("Answer"). (Bureau Ex. 2 at 1-2.) The Answer identified John Leonardi as the president of A Plus. (*Id.*) On June 11, 2012, the Bureau filed an amended verified complaint ("Amended Complaint") naming A Plus and John Leonardi as respondents (together, "Respondents"). (Bureau Ex. 1 at ¶¶ 2-3.) Respondents filed

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[1] Access-A-Ride is New York City's paratransit service that provides driving services for individuals with disabilities who are unable to use mass transit. *Guide to Access-A-Ride Services*, Metro. Transp. Auth., http://web.mta.info/nyct/paratran/guide.htm (last visited Feb. 14, 2019).

an amended verified answer on July 9, 2012 ("Amended Answer"). (Bureau Ex. 2 at 3-4.) On or about June 23, 2014, the Bureau received notice from Respondents' counsel stating that he was no longer representing Respondents and communicating his belief that A Plus was no longer in business. (Bureau Ex. 9.)

The Bureau issued a Probable Cause Determination against Respondents on October 8, 2014, and referred the matter to the Office of Administrative Trials and Hearings ("OATH") for an administrative hearing. (Bureau Comments at 1-2; ALJ Ex. 1.) The hearing was held on March 18, 2015, before the Honorable John B. Spooner. *In re Comm'n on Human Rights ex rel. Rodriguez v. A Plus Worldwide Limo Inc.*, OATH Index No. 905/15, R&R, 2015 WL 2359659, at *1 (Apr. 16, 2015). On April 16, 2015, Judge Spooner issued a report and recommendation ("Report and Recommendation"), recommending that the Office of the Chair of the New York City Commission on Human Rights ("Commission") find Respondents liable for violating §§ 8-107(4) and 8-107(15) of the NYCHRL. *Id.* at *2. Judge Spooner recommended an award of $8,000.00 in compensatory damages to Complainant, a civil penalty of $15,000.00, and that Respondents be ordered to undergo anti-discrimination training. *Id.* at *2.

The parties had the right to submit written comments and objections to the Report and Recommendation. *See* 47 RCNY § 1-76. The Bureau submitted comments on June 1, 2015, asking that the Commission adopt Judge Spooner's recommendation on Respondents' liability and training, but that compensatory damages be increased to $15,000.00 and civil penalties to $20,000.00. (Bureau Comments at 2.) Respondents did not file comments.

For the reasons set forth in this Decision and Order, the Commission holds that Respondents are liable for violating §§ 8-107(4) and 8-107(15) of the NYCHRL and orders that: (1) Respondents pay Complainant emotional distress damages of $13,000.00; (2) Respondent

Leonardi perform six months of community service, or in the alternative that Respondents pay a fine of $15,000.00; and (3) Respondent Leonardi and all other managerial staff of Respondent A Plus undergo training on the NYCHRL.

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 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. 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. Gibson v. N.Y.C. Fried Chicken Corp.*, OATH Index No. 279/17, 2018 WL 4901030, at *2 (Sept. 28, 2018); *In re Comm'n on Human Rights ex rel. Martinez v. Joseph "J.P." Musso Home Improvement*, OATH Index No. 2167/14, Dec. & Order, 2017 WL 4510797, at *8 (Sept. 29, 2017).

II. HEARING TESTIMONY AND EVIDENCE

In light of Respondents' failure to appear at the hearing and based on evidence that they had been served with notice, Judge Spooner found Respondents to be in default. (Hearing Tr. ("Tr.") at 6:4-18). The Bureau's presentation of its case included testimony from Complainant and the following documentary evidence: copies of the pleadings, along with proof of service (Bureau Exs. 1-2); the dog license certificate for Complainant's service dog, Nicko (Bureau Ex. 3); Complainant's December 2008 Access-A-Ride service application (Bureau Ex. 4); copies of Complainant's phone records from June and July of 2011 (Bureau Ex. 5); records from the New York City Taxi and Limousine Commission ("TLC") documenting a complaint filed by Complainant on June 11, 2011 against Respondent A Plus (Bureau Ex. 6); records from the OATH hearing on Complainant's complaint to the TLC, in which A Plus pleaded guilty and agreed to pay a $350.00 fine (Bureau Ex. 7); records from the New York City Transit Authority related to a report from Complainant that he was denied car service on or about June 11, 2011 (Bureau Ex. 8); and an email from Respondents' former counsel to the Bureau (Bureau Ex. 9).

Complainant testified that his disabilities include an amputated right leg; calcification of the lungs; seizures; and an autoimmune disease. (Tr. 11:1-13:4.) Because of his disabilities, Complainant relies on a wheelchair, crutches, a home healthcare aide, and a service dog to assist him in the activities of daily life. (*See id.* at 13:5-14:12.) During the relevant period, Complainant's service dog was an Akita named Nicko that assisted Complainant by retrieving items from the floor, opening doors, pulling his wheelchair, and providing seizure alerts. (*Id.* at 15:25-16:6; *see also* Bureau Ex. 3 at 1.)

In or about late 2008, Complainant applied and was approved for New York City's Access-A-Ride program. (Tr. at 19:14-21:25, 22:1-5.). Complainant testified that he used both

the car and van services offered by the Access-A-Ride program. (*Id.* at 22:6-9.) When Complainant called Access-A-Ride, he would be assigned either a van or a voucher and the name and phone number of a participating car company, so that he could contact them directly to schedule a ride. (*Id.* at 22:14-23:7.)

On or about June 10, 2011, Complainant phoned Access-A-Ride to request a car service to take him to his gym in Manhattan the next day. (*Id.* at 23:10-16.) He was assigned a voucher and directed to call Respondent A Plus to schedule a ride. (*Id.* at 23:10-12.) Complainant had previously used Respondents' car service on several occasions, accompanied by his service dog. (*Id.* at 24:14-25:8.) Complainant called A Plus on June 10, 2011, and arranged for someone to pick him up at 10:00 a.m. the next day. (*Id.* at 23:10-12.) However, no car arrived at the appointed hour and, at approximately 10:16 a.m., Complainant phoned A Plus to inquire about his ride. (*Id.* at 25:9-12.) The person he spoke with told Complainant that the voucher he had used to reserve the car had been canceled. (*Id.* at 26:24-27:1.) Complainant then phoned Access-A-Ride, at which point he was told that his voucher had not been cancelled and was instructed to contact A Plus again. (*Id.* at 27:6-16.)

When Complainant called A Plus a second time, he was told "regardless [of] whether [his] voucher [was] cancelled or not, that [Respondents were] not picking [him] up with [his] service dog and if [he] wanted to go with [his] service dog that [he] would have to bring a blanket for [his] service dog." (*Id.* at 27:17-28:5.) Although Complainant responded that it was against the law for Respondents to refuse to pick him up because of his service dog, Respondents still refused to send a car unless Complainant brought a blanket. (*Id.* at 28:6-13.) Complainant testified that this conversation made him feel "belittled," "like a second-class citizen," and like somebody hit him "with a two by four." (*Id.* at 28:20-29:3.)

That same day, Complainant called 311 and filed a complaint with the TLC. (*See* Tr. 29:4-16; Bureau Ex. 6 at 1.) Complainant eventually attended a hearing for that complaint on March 21, 2012, where Respondents pleaded guilty to the charge,[2] resulting in the maximum fine of $350.00. (*See* Tr. 30:13-31:1; Bureau Ex. 7 at 1.) In addition to the TLC complaint, Complainant filed a separate complaint with Access-A-Ride on or about June 15, 2011. (*See* Tr. 32:8-16; Bureau Ex. 8.)

On June 24, 2011, Complainant again called Access-A-Ride to request a car for the following day to take him into Manhattan, and again made a reservation with A Plus. (Tr. 32:21-33:6.) The next day, no car arrived. (*Id.* at 33:6.) Complainant called A Plus and spoke with Respondent Leonardi, who told him that he would not let Complainant "in [Respondents'] vehicle with [his] service dog." (*Id.* at 33:16-18.) Again, Complainant told Respondents that this was against the law, but Respondent Leonardi responded that he did not care. (*Id.* at 33:18-20.) Complainant testified that he again felt "belittled" and "like a second-class citizen." (*Id.* at 34:1-10.) He testified that he could not articulate "how painful and saddened" he was. (*Id.*) Complainant again called 311, on June 24, 2011, and filed another complaint against A Plus with TLC. (*See id.* at 34:11-19; Bureau Ex. 6 at 3.)

Complainant testified that he continues to think about and is bothered by his interactions with Respondents. (Tr. 35:11-13.) He has also discontinued the use of Access-A-Ride's car service when traveling with Nicko, opting instead to use Access-A-Ride's van service to avoid having "to argue with somebody to actually give me my rights." (*Id.* at 35:17-20.) Complainant

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[2] Respondents pleaded to a charge under TLC Rule § 59B-13, which states: "*Deliberate Acts of Commission.* While performing the duties and responsibilities of a Licensee, a Licensee must not deliberately perform or attempt to perform, alone or with another, any act that is against the best interests of the public although not specifically mentioned in these Rules."

testified that the van service takes more time (perhaps twice as long) and is less comfortable than a car. (*Id.* at 35:24-36:8.) Nonetheless, Complainant explained that he did not want "to relive that pain again . . . and argu[e] with someone and basically keep being treated like a second-class citizen." (*Id.* at 36:9-14.)

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 Discriminated Against Complainant By Refusing To Provide Him Transport in Violation of § 8-107(4) of the NYCHRL

In relevant part, it is a violation of the NYCHRL for "any person who is the owner . . . agent or employee of any place or provider of public accommodation . . . [b]ecause of any person's actual or perceived . . . disability . . . directly or indirectly . . . [t]o refuse, withhold from or deny to such person the full and equal enjoyment, on equal terms and conditions, of any of the accommodations, advantages, services, facilities or privileges of the place or provider of public accommodation." N.Y.C. Admin. Code § 8-107(4)(a)(1)(a). Taxi and car services, such as those offered by Respondent A Plus, qualify as providers of public accommodations under the NYCHRL. *See* N.Y.C. Admin. Code § 8-102(9); *In re Comm'n on Human Rights ex rel. Jordan v. Raza,* OATH Index No. 716/15, 2016 WL 7106070, at *5-6 (July 7, 2016); *Spitzer*, 2016 WL 7106071, at *5.

Even in a case of default, the Bureau still bears the burden of establishing a *prima facie* case of discrimination. *Martinez*, 2017 WL 4510797, at *5. To establish discrimination based on disability in a public accommodation, the Bureau must show that: (1) complainant has an actual or perceived disability, as defined by the NYCHRL; (2) Respondents directly or indirectly refused, withheld from, or denied an accommodation, advantage, facility, or privilege thereof based, in whole or in part, on complainant's actual or perceived disability; and (3) Respondents acted in such a manner and circumstances as to give rise to the inference that its actions constituted discrimination in violation of § 8-107(4). *See Romo v. ISS Action Sec.*, OATH 674/11, R&R, 2011 WL 12521359, at *5 (Apr. 12, 2011), *adopted*, Dec. & Ord. (June 26, 2011); *In re Comm'n on Human Rights ex rel. Stamm v. E&E Bagels, Inc.*, 2016 WL 1644879, at *7 (Apr. 20, 2016).

The uncontested evidence establishes that Complainant has several disabilities within the meaning of the NYCHRL, *see* N.Y.C. Admin. Code § 8-102(16), and that Respondents were aware of Complainant's disabilities, since they had previously provided him with Access-A-Ride transport services while he was accompanied by his service dog (Tr. 24:14-25:8). The record also shows that Respondents refused to provide transport services to Complainant on two separate occasions in June 2010. (*Id.* at 28:10-13.) Respondent Leonardi told Complainant over the phone that Respondents would not serve Complainant if he would be traveling with his service dog, unless he brought a blanket. (*Id.*) Respondents also admitted in their initial Answer that they were motivated by concerns that Complainant would be traveling with his service dog and would leave dog hair in their car. (*See* Bureau Ex. 2 at 4); *see also Kwiecinski v. Chung Hwang*, 65 A.D.3d 1443 (3d Dep't 2009) ("admissions in an original pleading superseded by an amended pleading 'are still evidence of the facts admitted'").

By placing conditions on Complainant's ability to use Respondents' car service because of the presence of his service dog, Respondents denied Complainant the "full and equal enjoyment" of their services at least in part because of Complainant's disability. N.Y.C. Admin. Code § 8-107(4)(a)(1)(a); *see also Cmty. Servs., Inc. v. Wind Gap Mun. Auth.*, 421 F.3d 170, 177 (3d Cir. 2005) (describing service dog as a proxy for disability status). The Commission therefore holds that Respondents are liable for discriminating against Complainant in violation of § 8-107(4) of the NYCHRL.

C. Respondents Refused to Provide Complainant a Reasonable Accommodation in Violation of § 8-107(15) of the NYCHRL

Section 8-107(15) of the NYCHRL requires that covered entities, including providers of public accommodations, "make [a] 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.

To establish liability under § 8-107(15) of the NYCHRL, the Bureau must show that: (1) the complainant has a disability; (2) the respondents knew or should have known of the disability; (3) an accommodation would enable the complainant to use or enjoy a public accommodation; and (4) the respondents refused to provide an accommodation. *See Stamm*, 2016 WL 1644879, at *6. Under the NYCHRL, a requested accommodation is presumed to be reasonable and the covered entity has the burden of establishing that the proposed accommodation is unreasonable. *Id.*

As discussed above, there is no dispute that Complainant has a disability and that Respondents knew about his disability. It is undisputed that Complainant specifically told Respondent Leonardi over the phone that his dog was a service animal (Tr. 28, 33), and that Respondents flatly refused to provide Complainant with an accommodation even after he told them twice that they were legally required to transport him with his service dog (*id.* at 26-33; Bureau Ex. 2). Moreover, if Respondents had permitted Complainant to travel with his service dog or had provided their own blanket to protect their car from dog hair, Complainant would have been able to use their services to get to his destination without impediment. In short, the Bureau has established that Respondents failed to provide Complainant with an accommodation for his disability.

It was Respondents' burden to establish that such an accommodation would pose an undue hardship; however, Respondents have made no such showing and, by failing to appear,

waived the opportunity to do so. In any event, given that Respondents had already transported Complainant and his service dog without a blanket, it is unlikely that they could establish that continuing to do so would amount to an undue hardship. The Commission therefore holds that Respondents violated § 8-107(15) of the NYCHRL by failing to provide Complainant with a reasonable accommodation.

IV. DAMAGES, CIVIL PENALTIES, AND AFFIRMATIVE RELIEF

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). 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 Agosto*, 2017 WL 1335244, at *7; *In re Comm'n on Human Rights ex rel. Howe v. Best Apartments*, OATH Index No. 2602/14, Dec. & Order, 2016 WL 1050864, at *6 (Mar. 14, 2016). 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).

The NYCHRL places no limitation on the size of compensatory damages awards. 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).

In the Report and Recommendation, Judge Spooner recommended that the Commission award emotional distress damages of $8,000.00 to Complainant. *Rodriguez*, 2015 WL 2359659 at *4. The Bureau requests that the Commission increase these damages to $15,000.00 (Bureau Comments at 5, 6, 9), and Respondents did not provide any comments. Because the Bureau did not present evidence of Complainants' economic damages, damages here are limited to emotional distress damages.

Complainant credibly testified that being denied service by Respondents made him feel "belittled," "like a second-class citizen," and "like somebody hit [him] with a two by four." (Tr. 28:21-25.) Additionally, he testified, "it's disheartening to express into words[,] I can't even tell you how painful and saddened that actually hurt me." (*Id.* at 34:8-10.) He further explained that he had discussed the incidents with family and friends and was reminded of the incidents whenever he was with his service dog and saw a car service go by. (*Id.* at 35:1-10.) Because of

Respondents' discrimination, Complainant stopped using Access-A-Ride's car service when traveling with his service dog to avoid the need to "argue with somebody to actually give [him] [his] rights." (*Id.* at 35:17-20.) Instead, he opted to use the Access-A-Ride van service, which took significantly longer and was less comfortable for him. (*Id.* at 36:1-8.)

Complainant's emotional distress is comparable to that in three cases – *Gibson,* 2018 WL 4901030, *Commission on Human Rights ex rel. De La Rosa v. Manhattan and Bronx Surface Transportation Operating Authority*, OATH Index No. 1141/11, Dec. & Order, 2005 WL 5632050 (Mar. 11, 2005), and *Riverbay Corp. v. New York City Commission on Human Rights*, No. 260832/10, 2011 WL 11554353, at *4 (Sup. Ct. Bronx Cty. Sept. 9, 2011).

In *Gibson*, the respondent ejected the complainant from a restaurant because of the presence of the complainant's service dog. 2018 WL 4901030, at *5. The incident caused the complainant to cry and, for about six to eight months, he suffered recurrent nightmares and was unable to sleep without medication. *Id.* at *6. For about six months, the complainant also felt depressed and refused to visit new restaurants, and subsequently would only visit new restaurants if he could call or send someone ahead to ensure that he would be served without a problem. *Id.* In describing his emotional distress, the complainant testified that he was "extremely upset," "angry," "embarrassed," and "ripped . . . to the core." *Id.* The Commission awarded $13,000.00 in that case. *Id.* at *9.

In *De La Rosa*, the respondent bus driver discriminated against the complainants based on their disability, hurling vulgarities at them, wishing that "physical harm befall them, demeaning them in front of the other passengers and refusing to assist them off the bus . . . resulting in the complainants being trapped on the bus for three hours while it continued on its route." 2005 WL 5632050, at *1. As a result, the complainants experienced anxiety that inhibited

them from continuing to take public transportation for short trips and left them feeling helpless about their ability to care for their child. Based on the record in that case, the Commission awarded emotional distress damages of $10,000.00 to one complainant and $12,000.00 to the other. *Id.* at *2.

In *Riverbay*, the Complainant testified that the respondent's failure to provide him access through the front door of his building as a reasonable accommodation for a disability made him feel "isolated" and like a "second-class citizen." 2011 WL 11554353, at *4. He further testified that his reliance on others to open the door caused him on several occasions to be "'caught in the elements for up to 45 minutes.'" *Id.* at *10. Based on the record in that case, the reviewing court modified the award of emotional distress damages to $12,000.00. *Id.*

Like the complainant in *Riverbay*, Complainant in this case described feeling belittled and made to feel like a "second-class citizen." Complainant was also so impacted by the discrimination that he faced that he opted to forgo an easier and more comfortable form of transport simply to avoid the possibility of experiencing the same discrimination he faced from Respondents. This reaction was similar to that in *De La Rosa*, where the complainants also chose to forgo public transit for certain trips, and *Gibson*, where the complainant avoided visiting new restaurants, out of fear of being subjected to further discrimination. In view of similar cases and the record as a whole, the Commission concludes that Complainant should be awarded $13,000.00 in emotional distress damages.

B. Affirmative Relief

Respondents' discriminatory conduct in this case was deeply troubling. They repeatedly refused to serve Complainant despite knowing that, as an Access-A-Ride user, he is unable to use other public transit options because of his disabilities. They also ignored Complainant's

warning that their conduct was against the law. The Commission is mindful that, like Complainant, people with disabilities face numerous obstacles when navigating New York City and accessing essential services. Discrimination compounds those difficulties, striking at people's dignity and limiting their ability to freely engage in basic life activities.

While the Commission often imposes monetary fines to penalize acts of unlawful discrimination and discourage future violations of the NYCHRL, it has found that the public interest is, at times, best served by alternatives to civil penalties, such as requiring respondents to perform community service. *See Spitzer*, 2016 WL 7106071, at *11; *Jordan*, 2016 WL 7106070, at *11-12. Community service provides an opportunity for respondents to meaningfully redress the harm of their misconduct and, in some cases, to connect with, serve, and learn from the communities most impacted by their discrimination. Because the Respondents in this case are likely to continue working regularly with customers with disabilities through the Access-A-Ride program, the Commission perceives that community service may provide a constructive way for Respondents to make amends and encourage more respectful interactions with their customers with disabilities. The Commission is providing Respondent Leonardi with the option of performing community service over a six-month period in lieu of paying a civil penalty to the City of New York.

In the event that Respondent Leonardi chooses not to perform community service or fails to undertake or complete the required community service within the required timeframe, as set forth below, a fine will be imposed against the Respondents. The Commission agrees with Judge Spooner that, based on the severity of the discrimination, the number of incidents, the potential impact on the public, and Respondents' default at the hearing, a civil penalty of $15,000.00 is appropriate. *See Rodriguez*, 2015 WL 2359659, at *5. Such a fine is consistent with those

imposed in similar cases. *See In re Comm'n on Human Rights ex rel. Alvarez v. Gerardo's Transp.*, OATH Index No. 2045/09, Dec. & Order, at 13 (Aug. 12, 2009) (Respondent fined $15,000.00 in civil penalties for refusing transport due to the complainant's use of a wheelchair); *Gibson*, 2018 WL 4901030, at *9 ($18,000.00 civil penalty); *Romo*, 2011 WL 12521359, at *16 (Respondent fined $15,000.00 in civil penalties for refusing the complainant entry to a place of public accommodation on account of his service dog).

The Commission also frequently requires 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; *Jordan*, 2016 WL 7106070, at *11; *Stamm*, 2016 WL 1644879, at *11; *In re Comm'n on Human Rights ex rel. Blue v. Jovic,* OATH Index No. 1624/16, Dec. & Order, 2017 WL 2491797, at *17 (May 26, 2017). As set forth below, the Commission orders Respondent Leonardi and all other managerial staff at Respondent A Plus 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, Respondents pay Complainant Rodriguez $13,000.00 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 Carlos Rodriguez, including a written reference to OATH Index No. 905/15.

IT IS FURTHER ORDERED that no later than 30 calendar days after service of this Order, Respondent Leonardi contact the Commission at (212) 416-0128 to coordinate his

community service. If Respondent Leonardi fails to timely contact the Commission regarding the community service as set forth above, or fails to substantially perform such community service within the required six-month period, an automatic penalty of $15,000 will be levied against Respondents. The fine should be paid 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. 905/15.

IT IS FURTHER ORDERED that no later than 60 calendar days after service of this Order, Respondent John Leonardi and all other managerial staff of Respondent A Plus Worldwide Limos, 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.

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 Respondents, 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.* at § 8-129.

Dated: New York, New York
March 7, 2019

SO ORDERED:
New York City Commission on Human Rights

Carmelyn P. Malalis
Commissioner/Chair

To: