

162 A.D.3d 576  
Supreme Court, Appellate Division,  
First Department, New York.

In re NEW YORK STATE DIVISION  
OF HUMAN RIGHTS, Petitioner,  
v.  
INTERNATIONAL FINANCIAL  
SERVICES GROUP, et al., Respondents,  
Crystal Martinez, Nominal Respondent.

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ENTERED: JUNE 26, 2018

#### Attorneys and Law Firms

Caroline J. Downey, N.Y.S. Division of Human Rights,  
Bronx (Aaron M. Woskoff of counsel), for petitioner.

Renwick, J.P., Gische, Kapnick, Gesmer, Kern, JJ.

#### Opinion

**\*576** Determination of petitioner New York State Division of Human Rights (DHR), dated May 19, 2015, granting the complaint for disability discrimination, awarding complainant \$64,436.03 in back pay and \$10,000 for emotional distress, and assessing a civil penalty of \$20,000 (the proceeding having been transferred to this Court by order of Supreme Court, Bronx County [Julia Rodriguez, J.], entered on or about March 3, 2017), unanimously confirmed, without costs.

**\*\*902** Substantial evidence supports the agency's findings that respondents engaged in disability-based employment discrimination against complainant, in violation of the New York State Human Rights Law

(see *Matter of McEniry v. Landi*, 84 N.Y.2d 554, 559–560, 620 N.Y.S.2d 328, 644 N.E.2d 1019 [1994]; *300 Gramatan Ave. Assoc. v. State Div. of Human Rights*, 45 N.Y.2d 176, 408 N.Y.S.2d 54, 379 N.E.2d 1183 [1978]). The record further supports the imposition of liability upon individual respondent Carlos Zapata, for aiding and abetting discriminatory conduct, since he directly participated in the discriminatory conduct by, among other things, terminating complainant (see Executive Law § 296[6]; *Peck v. Sony Music Corp.*, 221 A.D.2d 157, 158, 632 N.Y.S.2d 963 [1st Dept. 1995]; *Miloscia v. B.R. Guest Holdings LLC*, 33 Misc.3d 466, 479, 928 N.Y.S.2d 905 [Sup. Ct., N.Y. County 2011], *affd in part, mod on other grounds in part* 94 A.D.3d 563, 942 N.Y.S.2d 484 [1st Dept. 2012]).

The award of compensatory damages for back pay is appropriate (see Exec Law § 297[4][c][ii]–[iii]; *Rio Mar Rest. v. New York State Div. of Human Rights*, 270 A.D.2d 47, 48, 704 N.Y.S.2d 230 [1st Dept.], *lv denied* 95 N.Y.2d 763, 715 N.Y.S.2d 376, 738 N.E.2d 780 [2000]), as is the award of damages for mental anguish (see **\*577** *Matter of New York State Div. of Human Rights v. Milan Maintenance, Inc.*, 152 A.D.3d 412, 54 N.Y.S.3d 854 [1st Dept. 2017]; *Matter of New York State Div. of Human Rights v. Neighborhood Youth & Family Servs.*, 102 A.D.3d 491, 956 N.Y.S.2d 892 [1st Dept. 2013]).

The agency did not abuse its discretion in setting the amount of the civil penalty at \$20,000 (see Executive Law § 297[4][c][vi]; *Matter of Jacobs v. New York State Div. of Human Rights*, 131 A.D.3d 883, 17 N.Y.S.3d 19 [1st Dept. 2015]).

#### All Citations

162 A.D.3d 576, 75 N.Y.S.3d 901 (Mem), 2018 N.Y. Slip Op. 04673