

COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION  
AGAINST DISCRIMINATION  
and HERBERT JOHNSON,  
Complainant

v.

DOCKET NOS. 04-BEM-03087  
04-BEM-03126

LOJEK, CO, INC., ALEX BANOW,  
KENNY JENNINGS and CHRIS  
NICE,  
Respondents

DECISION OF THE FULL COMMISSION AFTER REMAND

On July 31, 2012, the Full Commission affirmed the Decision of the Hearing Officer in the above referenced matter with respect to liability, and the amount of damages for emotional distress as supported by the evidence, but remanded the matter to the Hearing Officer for some clarification on the issue of apportionment of the damages for emotional distress with respect to each claim.

On January 10, 2014, the Hearing Officer issued a decision apportioning damages as follows: She determined that all the named Respondents were responsible for a portion of Complainant's emotional distress arising from racial harassment in the workplace and failure to remedy a hostile work environment. She apportioned \$15,000 of her \$50,000 award to distress arising from that claim. She further concluded that a greater portion of Complainant's distress was caused by his subsequent unlawful and retaliatory termination by the employer only, and apportioned the remaining \$35,000 in damages against the employer only.

Having reviewed the conclusions of the Hearing Officer we hereby re-affirm her findings as to liability and affirm the award of damages in the amount of \$50,000 as apportioned, and Order payment of Attorney's fees in the amount of \$44,500.00 and costs to the Complainant in amount of \$2112.55 as reasonable per our earlier decision.

In light of the above we hereby issue the following Order:

- 1) All Respondents shall pay to Complainant the amount of \$15,000 in damages with interest thereon at the rate of 12% per annum from the date the complaint was filed until such time as payment is made or the matter is reduced to a court judgment and post-judgment interest begins to accrue.
- 2) Respondent, Lojek Co., Inc. shall pay to Complainant the sum of \$35,000 in damages with interest thereon at the rate of 12% per annum from the date the complaint was filed until such time as payment is made or this matter is reduced to a court judgment and post-judgment interest begins to accrue.
- 3) Respondent, Lojek Co., Inc. shall pay to Complainant Attorney's fees in the amount of \$45,500 with interest thereon in the amount of 12% per annum from the date the attorney fee petition was filed until such time as payment is made, or this matter is reduced to a court judgment and any post-judgment interest begins to accrue.
- 4) Respondent, Lojek Co., Inc. shall pay to Complainant costs in the amount of \$2,112.55 with interest thereon at the rate of 12% per annum from the date the petition for costs was filed until such time as payment is made or this matter is reduced to a court judgment and any post-judgment interest begins to accrue.

This Order represents the final action of the Commission for purposes of M.G.L. c. 30A. Any party aggrieved by this final determination may appeal the Commission's decision by filing

a complaint seeking judicial review, together with a copy of the transcript of the proceedings. Such action must be filed within 30 days of receipt of this decision and must be filed in accordance with M.G.L. c. 30A, c. 151B, § 6, and the 1996 Superior Court Standing Order on Judicial Review of Agency Actions. Failure to file a petition in court within 30 days of receipt of this Order will constitute a waiver of the aggrieved party's right to appeal pursuant to M.G.L. c. 151B, § 6.

SO ORDERED this 2nd day of May, 2014.

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Jamie Williamson  
Chairwoman

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Sunila Thomas-George  
Commissioner