

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

<p>NAZYM TOKTASSYNOVA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>ADAM VICTOR, TRANSGAS DEVELOPMENT SYSTEMS LLC, GAS ALTERNATIVE SYSTEMS, INC., TRANSNATIONAL ENERGY LLC, TRANSNATIONAL MANAGEMENT SYSTEMS, LLC, TRANSNATIONAL MANAGEMENT SYSTEMS II, LLC, ADAM VICTOR & SON STABLE LLC and ADAM VICTOR GRANTOR TRUST,</p> <p style="text-align: center;">Defendants.</p>	<p>Index No. 162327/2014</p> <p>IAS Part 17</p> <p>Hon. Shlomo S. Hagler</p> <p style="text-align: center;"><u>VERIFIED ANSWER AND AFFIRMATIVE DEFENSES</u></p>
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Defendants ADAM VICTOR, TRANSGAS DEVELOPMENT SYSTEMS LLC, GAS ALTERNATIVE SYSTEMS, INC., TRANSNATIONAL ENERGY LLC, TRANSNATIONAL MANAGEMENT SYSTEMS, LLC, TRANSNATIONAL MANAGEMENT SYSTEMS II, LLC, ADAM VICTOR & SON STABLE LLC and ADAM VICTOR GRANTOR TRUST (collectively, the “Defendants”), by their attorneys, Davidoff Hutcher & Citron LLP, as and for their answer to the verified amended complaint (the “Complaint”) by plaintiff NAZYM TOKTASSYNOVA (“Plaintiff”), dated March 10, 2015, allege as follows:

1. Defendants admit that Plaintiff asserts claims for sexual harassment and related claims and otherwise deny the allegations in paragraph 1 of the Complaint.
2. Deny.
3. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 3 of the Complaint.
4. Deny.

5. Deny.
6. Admit.
7. Admit.
8. Deny.
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28. Admit.

29. Deny.

30. Deny.

31. Deny.

32. Admit that the Court has jurisdiction over this action, but deny that Plaintiff has asserted any valid claims.

33. Admit.

34. Deny.

35. Admit.

36. Deny.

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60. Admit.

61. Deny.

62. Deny.

63. Admit.

64. Deny.

65. Deny.

66. Deny.

67. Deny.

68. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 68 of the Complaint.

69. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 69 of the Complaint.

70. Defendants deny possession of knowledge or information sufficient to admit or

deny the allegations contained in paragraph 70 of the Complaint.

71. Deny.

72. Admit, and state that Toktassynova informed Victor that she accumulated sufficient funds from her previous work as a prostitute in order to pay an approximately \$8,000 security deposit for her new apartment in cash.

73. Deny.

74. Deny.

75. Deny.

76. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 76 of the Complaint.

77. Deny.

78. Admit.

79. Deny.

80. Deny.

81. Admit.

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85. Admit.

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168. Admit.

169. Deny.

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171. Deny.

172. Deny.

173. Deny.

174. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 174 of the Complaint.

175. Deny.

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280. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 280 of the Complaint.

281. Deny.

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299. Deny.

300. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 300 of the Complaint.

301. Deny.

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363. Deny.

364. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 364 of the Complaint.

365. Deny.

366. Deny.

367. Deny.

368. Deny.

369. Deny, and state that Victor demanded that Plaintiff not return to prostitution, not that she not have a boyfriend.

370. Deny.

371. Deny.

372. Deny.

373. Deny.

374. Deny.

375. Deny.

376. Deny and state that around this time, Toktassynova suddenly began appearing with expensive clothing and accessories. Victor queried whether Toktassynova had returned to her previous job as a prostitute in order to buy the expensive outfits and handbags. Toktassynova tacitly conceded that she had returned to prostitution, but was visibly upset by the question. Rather than questioning Toktassynova about her “boyfriend,” Victor instead questioned Tokstassynova about her job as a prostitute, and said that if Toktassynova wanted to continue working as a prostitute, she could no longer work for Victor.

377. Deny.

378. Deny.

379. Deny.

380. Deny.

381. Deny.

382. Deny.

383. Deny.

384. Deny.

385. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 385 of the Complaint.

386. Deny.

387. Deny.

388. Deny.

389. Admit that Defendants inspected Khatskevich's work phone for purposes of determining what confidential information Khatskevich stole from Defendants, and concluded that Khatskevich had stolen Defendants' property to support her efforts to extort Defendants, and otherwise denies the allegations in paragraph 389 of the Complaint.

390. Admit that Defendants inspected Khatskevich's work phone for purposes of determining what confidential information Khatskevich stole from Defendants, and concluded that Khatskevich had stolen Defendants' property to support her efforts to extort Defendants, and otherwise denies the allegations in paragraph 390 of the Complaint.

391. Deny.

392. Deny.

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- 428. Deny.
- 429. Deny.
- 430. Deny.

431. Admit that Khatskevich sued Victor and otherwise denies that Khatskevich's lawsuit is anything other than a transparent effort to extort an unwarranted settlement out of Adam Victor commenced by a desperate person who worked in a brothel prior to being rescued by Victor and, upon information and belief, currently has no job or means to support herself.

- 432. Deny.
- 433. Deny.
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513. Deny.

514. Deny.

515. Deny.

516. Defendants deny possession of knowledge or information sufficient to admit or deny the allegations contained in paragraph 516 of the Complaint.

517. Deny.

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- 549. Deny.
- 550. Deny.

551. Deny.

552. Deny, and state that any physical ailments suffered by Plaintiff may be the result of injuries sustained or sexually transmitted diseases Plaintiff obtained during her prior employment as a prostitute.

553. Deny.

554. Deny.

555. Deny.

556. Deny.

557. Deny.

558. Deny.

559. Deny.

560. Deny.

561. Deny.

562. Deny.

563. Deny.

564. Deny.

565. Deny.

566. Deny.

567. Deny.

568. Deny.

569. In response to paragraph 569 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

570. Deny.

571. Deny.

572. Deny.

573. Deny.

574. Deny.

575. In response to paragraph 575 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

576. Deny.

577. Deny.

578. Deny.

579. Deny.

580. Deny.

581. In response to paragraph 581 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

582. Deny.

583. Deny.

584. Deny.

585. Deny.

586. Deny.

587. In response to paragraph 587 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

588. Deny.

589. Deny.

590. Deny.

591. Deny.

592. Deny.

593. Deny.

594. In response to paragraph 594 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

595. Deny.

596. Deny.

597. Deny.

598. Deny.

599. Deny.

600. In response to paragraph 600 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

601. Deny.

602. Deny.

603. Deny.

604. In response to paragraph 604 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

605. Deny.

606. Deny.

607. Deny.

608. In response to paragraph 608 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

609. Deny.

610. Deny.

611. Deny.

612. Deny.

613. In response to paragraph 613 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

614. Deny.

615. Deny.

616. Deny.

617. In response to paragraph 617 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

618. Deny.

619. Deny.

620. Deny.

621. Deny.

622. Deny.

623. In response to paragraph 623 of the Complaint, Defendants incorporate each of the foregoing allegations as though fully set forth herein.

624. Deny.

625. Deny.

626. Deny.

627. Deny.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

628. The Complaint, and each cause of action alleged therein, fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

629. The Complaint is barred in whole or in part by documentary evidence.

630. Documentary evidence establishes that Plaintiff was an intern on a student visa only by Transgas Development Systems, LLC, and never by any other entity.

631. Documentary evidence also establishes that none of the Defendants had more than 4 employees at any relevant time period.

THIRD AFFIRMATIVE DEFENSE

632. The Complaint is barred in whole or in part on account of Plaintiff's unclean hands.

633. Plaintiff engaged in a scheme to extort Defendants, assisted by her roommate, Yevgeniya Khatskevich, and her roommate's boyfriend, Tyler Erdman, and cannot complain now that Defendants finally discovered Plaintiff's nefarious scheme.

FOURTH AFFIRMATIVE DEFENSE

634. Any recovery by Plaintiffs must be offset by amounts Plaintiff owes to Defendants for stealing property, including a Mac laptop computer and an iPhone, and any other stolen property that Plaintiff received from Khatskevich or Erdman.

FIFTH AFFIRMATIVE DEFENSE

635. Defendants have at all times acted in good faith and with reasonable grounds for believing that their conduct was entirely lawful. Plaintiff is precluded by her own misconduct, acts and omissions from maintaining this action.

SIXTH AFFIRMATIVE DEFENSE

636. The actions of Defendants were not wrongful.

SEVENTH AFFIRMATIVE DEFENSE

637. The losses and damages complained of in the Complaint were caused by Plaintiff's acts of misconduct and omissions.

EIGHTH AFFIRMATIVE DEFENSE

638. Plaintiff's claims for punitive damages are barred in whole or in part because Defendants made good faith attempts to comply with applicable laws.

NINTH AFFIRMATIVE DEFENSE

639. The causes of action against Defendants should be dismissed for failure to allege any allegations that Defendants neglected Plaintiff's complaints.

TENTH AFFIRMATIVE DEFENSE

640. Defendants did not retaliate against Plaintiff.

ELEVENTH AFFIRMATIVE DEFENSE

641. The Complaint fails to state a claim upon which relief can be granted against Defendants under Title VII of the Civil Rights Act of 1964, as amended.

TWELFTH AFFIRMATIVE DEFENSE

642. The Complaint fails to state a claim upon which relief can be granted against Defendants under the New York State Human Rights Law.

THIRTEENTH AFFIRMATIVE DEFENSE

643. The Complaint fails to state a claim upon which relief can be granted against Defendants under the New York City Administrative Code.

FOURTEENTH AFFIRMATIVE DEFENSE

644. All of Plaintiff's claims should be dismissed to the extent that they were not asserted in a duly-filed administrative charge of discrimination.

FIFTEENTH AFFIRMATIVE DEFENSE

645. Plaintiff's claims should be dismissed to the extent that Plaintiff did not satisfy all jurisdictional prerequisites or conditions precedent to suit.

SIXTEENTH AFFIRMATIVE DEFENSE

646. Plaintiff's claims of sexual harassment, discrete acts of which occurred more than 300 days prior to her a charge of discrimination with an administrative agency, are barred pursuant to the applicable statutes of limitations.

SEVENTEENTH AFFIRMATIVE DEFENSE

647. Even if it were shown that Plaintiff's sex, immigration status, or her making of any complaint was the subject of any adverse personnel action, the same action(s) would have been taken with respect to Plaintiff without regard thereto and, as such, this Complaint should be dismissed for failure to state a claim upon which relief could be granted and/or any relief to Plaintiff.

EIGHTEENTH AFFIRMATIVE DEFENSE

648. Plaintiff's claims are barred in whole or in part, because Plaintiff failed to mitigate her alleged damages by using reasonable diligence to seek comparable employment elsewhere.

NINETEENTH AFFIRMATIVE DEFENSE

649. Assuming that Plaintiff experienced any discriminatory behavior based on her sex or immigration status or any other protected right (which Defendants deny), Plaintiff unreasonably failed to take advantage of preventive and/or corrective opportunities provided by

Defendants and, accordingly, is barred in whole or in part from recovering damages from Defendants.

TWENTIETH AFFIRMATIVE DEFENSE

650. Plaintiff's claims for liquidated or punitive damages are precluded by Defendants' good faith efforts to comply with federal, state and local anti-discrimination and anti-retaliation laws.

TWENTY-FIRST AFFIRMATIVE DEFENSE

651. Plaintiff's claims are barred in whole or in part because none of the Defendants had more than 4 employees at any relevant time period.

TWENTY-SECOND AFFIRMATIVE DEFENSE

652. Plaintiff's claims are barred in whole or in part based on consent.

PRESERVATION OF DEFENSES

653. Defendants reserve the right to raise additional and other affirmative defenses that may subsequently become or may appear to be applicable to some or all of the causes of action in the Complaint.

PRAYER FOR RELIEF

WHEREFORE, Defendants demand judgment dismissing the Complaint in its entirety, in addition to and such other and further relief as this Court may deem just and proper.

Dated: New York, New York
June 8, 2015

DAVIDOFF HUTCHER & CITRON LLP

By: /s/ Joshua Krakowsky

Larry Hutcher

Joshua Krakowsky

605 Third Avenue

New York, New York 10158

(212) 557-7200

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