UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MOHAD ATHAR,

Plaintiff,

- against –

THE MUSEUM OF JEWISH HERITAGE, A LIVING MEMORIAL TO THE HOLOCAUST, MICHAEL GLICKMAN as Chief Executive Officer,

Defendant.

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Case No.: 1:17-cv-09491

AMENDED
VERIFIED COMPLAINT

DEMAND FOR JURY TRIAL

Mohad Athar, by his attorneys, The Law Offices of Vincent P. White, alleges upon knowledge to himself and upon information and belief as to all other matters as follows:

PRELIMINARY STATEMENT

1. Plaintiff Mohad Athar ("Mr. Athar"), a Pakistani-American Muslim, files this complaint alleging that Defendant the Museum of Jewish Heritage, A Living Memorial to the Holocaust ("the Museum") and Defendant Michael Glickman ("Glickman") illegally targeted and retaliated against Mr. Athar and then unlawfully terminated him based upon his race, religion, and national origin. Mr. Athar performed his duties for over ten years with excellent performance reviews. However, Mr. Athar received disparate treatment in his employment opportunities upon Glickman's arrival, resulting in his unlawful termination. Mr. Athar now requests that this Court enforce his civil rights as protected by federal, state, and local law.

2. Mr. Athar brings this action pursuant to Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 1981 *et seq.*, 42 U.S.C. § 2000 *et seq.*, the New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq.*, and the New York City Human Rights Law, N.Y. Admin. Code § 8-101 *et seq.*, against Defendants the Museum and Glickman.

JURISDICTION & VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 1343, as this action involves federal questions regarding deprivation of Mr. Athar's Civil Rights under Title VII and the other aforementioned federal statutes. The Court has supplemental jurisdiction over Mr. Athar's related claims arising under state and local law pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices herein, occurred in this district.

PROCEDURAL REQUIREMENTS

5. Mr. Athar complied with all statutory prerequisites to filing this action.

6. On January 24, 2017, Mr. Athar filed a Verified Complaint with the United States Equal Employment Opportunity Commission (EEOC) charging Defendants with unlawful discriminatory employment practices.

7. On September 20, 2017, the EEOC issued Mr. Athar a notice of right to file suit in federal court for allegations of unlawful discrimination on the basis of race, religion, and national origin as set forth in the Verified Complaint.

8. Mr. Athar filed this action within 90-days of receipt of the EEOC's decision.

9. Mr. Athar met any and all other perquisites to the filing of this suit.

THE PARTIES

10. Plaintiff Mohad Athar is a Pakistani-American Muslim residing in Somerset, New Jersey. The Museum employed Mr. Athar from March 6, 2006 until January 13, 2017.

11. Defendant the Museum of Jewish Heritage, A Living Memorial to the Holocaust is a non-profit organization that protects the historical record of the Holocaust and promotes

understanding of Jewish heritage, as well as teaches visitors about the dangers of intolerance, with its chief place of business at 36 Battery Place, New York, New York 10280.

12. Defendant Michael Glickman was hired as President and Chief Executive Officer by the Museum from September 1, 2016 through the present.

FACTUAL ALLEGATIONS

13. The Museum hired Mr. Athar on March 6, 2006 as Controller. Defendant subsequently promoted Mr. Athar to Director of Finance in March 2007, and then to Chief Financial Officer in July 2009. The Museum terminated Mr. Athar's employment on January 13, 2017.

14. As set forth in greater detail below, Mr. Athar experienced a deluge of discrimination and harassment after Glickman assumed his position as Chief Executive Officer in September 2016. Glickman constructed false performance reviews against Mr. Athar in order to facilitate his termination. Glickman repeatedly cursed at Mr. Athar and admonished him more harshly than other employees who were not Pakistani or Muslim. Further, Glickman hired less qualified Caucasian employees and created wholly new positions for them, in order to curtail Mr. Athar's employment responsibilities and falsify performance complaints against him. Mr. Athar repeatedly complained of Glickman's discriminatory conduct, from Glickman's first day until Mr. Athar's unlawful termination. Defendants' conduct caused Mr. Athar anxiety, stress, and other psychological injury that required treatment by a physician.

15. From March 6, 2006 until September 1, 2016, Mr. Athar performed all of his job responsibilities for the Museum without incident. As recently as September 2016, the Museum awarded him an excellent performance review.

16. On September 1, 2016, the Museum appointed Glickman as President and Chief Executive Officer. Almost immediately, Glickman cursed and mumbled religious and racial slurs

at Mr. Athar. His first act as CEO was to hire Manager of Special Projects Rita Iosefson, a Caucasian woman from his previous employer. On September 2, 2016, Glickman created an entirely new position for his Caucasian hire, Elaine Valby, as Chief of Staff. She previously worked as Director of Finance & Administration at the Center for Jewish History for nine years with Glickman. It became clear to Mr. Athar that Glickman sought to replace him with Valby because of their similar work experience. Several employees expressed the belief that Glickman would replace Mr. Athar with Valby, including Director of Human Resources Tammy Chiu, Director of Grants Sharon Steinbach, and former Chief Development Officer Linda Zisk. On October 6, 2016, Glickman hired Director of Data Services Peter Casalino (also Caucasian). Glickman hired three new employees in this brief timeframe, all of whom were Caucasian.

17. On multiple occasions, Glickman falsely stated that Mr. Athar conducted his real estate business and prepared his tax returns on company time. Glickman also falsely stated that Mr. Athar did not understand how to process payroll and that he required help from Chiu. In response, on November 1, 2016, Mr. Athar commenced recording his conversations with other employees of the Museum and Blue Steel Security Owner John Gurdusky, in order to preserve a record of Glickman's discriminatory conduct.

18. On September 15, 2016, Glickman represented to the Museum's security vendor that he would soon replace people in the finance department.

19. On October 13 and 24, 2016, Glickman sent defamatory statements about Mr. Athar through the Museum's corporate email system. Glickman knew his statements to be false, but disregarded any damage it might inflict because of his discriminatory animus towards Mr. Athar.

20. On October 28, 2016, Glickman falsely stated to Senior Vice President & Deputy Director Elissa Cohen, Iosefson, and Valby that Mr. Athar did not comprehend Charitable Gift

Annuities. Glickman made this statement with the intent to defame and injure Mr. Athar's professional character to the aforementioned-employees.

21. On November 14, 2016, Mr. Athar spoke with Chiu about Glickman's discriminatory conduct. Chiu confided to Mr. Athar, "I know your work is fine…I know what [Glickman] said is not true." She advised him to seek legal representation because she believed that Glickman was targeting him. Further, Chiu acknowledged that Mr. Athar reported Glickman's discriminatory conduct for several months. Concurrently, Glickman falsely stated to Chiu that Mr. Athar did not comprehend how to process payroll, despite Mr. Athar's twenty-one years of experience processing payroll. Glickman represented that Mr. Athar failed to process the UK Office's payroll.

22. On November 17, 2016, Accounts Payable Accountant Anthony Treglia opined that Glickman's conduct constituted religious discrimination and that Glickman targeted Mr. Athar because of his skin color. Treglia stated, "The board should question the leadership of [Glickman] because he is only hiring his friends and that [Glickman] is not treating you like a business person or colleague…[Glickman] will make this a white Museum."

23. Beginning on November 28, 2016, Glickman transferred Mr. Athar's job duties to Valby, including: check signing authority, purchase orders signing authority, and authority to approve weekly payments. These duties are typically assigned to the Chief Financial Officer. Glickman then forbade Mr. Athar from attending vendor meetings and notified him that he would be invited to board meetings on an "as needed" basis only. In a final stroke of malice, Glickman directed the finance department to report to Valby and required that Mr. Athar have all of his actions approved in writing by her. Concurrently, Mr. Athar advised the Museum that they failed to forward funds to the NYS Economic Development Fund. He recommended that they immediately transfer those funds to avoid a government investigation, but Glickman forbade it

without explanation. Glickman stated that Mr. Athar's compliance recommendation was "completely idiotic."

24. In November and December 2016, Zisk admitted that, "I am 100% sure that [Glickman] wants to replace you with Elaine Valby. It is a scheme. Are they trying to change carryover rules so that your past vacation doesn't carryover? [Glickman] is trying to set you up." About this same time, Glickman met with Senior Accountant Thomas Mugan and Treglia in a fishing expedition against Mr. Athar. Treglia stated, "This is [Glickman]'s plan. There is nothing wrong with your work, but [Glickman] will find something wrong."

25. On December 12, 2016, the Museum directed Mr. Athar to acknowledge and sign an updated employee handbook. From March 2006 until December 21, 2016, the Museum's employee handbook remained virtually unchanged regarding severance and vacation payout for terminated employees. The Museum's previous handbook granted employees the right to carry-over accrued vacation with written approval. Further, it granted all employees with one week of severance for every year of service.

26. The Museum's updated employee handbook removed any reference to severance pay and instituted a 140-hour cap on vacation pay. Mr. Athar objected to this change to Chiu. She represented that signing the updated employee handbook did not constitute agreement with its terms, but that he would need to sign it in order to continue his employment. Mr. Athar stated to Chiu that he believed Glickman intentionally removed the previous severance and vacation sections so that he could terminate him without fearing a large severance package. As of Mr. Athar's unlawful termination, he accrued 475.31 hours of vacation time, valued at $36,311.59. The Museum acknowledged in writing that Mr. Athar's accrued vacation would not be subject to

the new ceiling cap. However, the Museum paid Mr. Athar his accrued vacation only after he retained legal counsel and incurred significant cost and expense.

27. On December 22, 2016, Treglia represented that Glickman specifically designed the new employee handbook in contemplation of Mr. Athar's termination. On December 23, 2016, Chiu advised Mr. Athar that the Museum would stop accruing his vacation time as of December 15, 2016.

28. On January 13, 2016, the Museum unlawfully terminated Mr. Athar's employment. Glickman intentionally misstated Mr. Athar's quarterly cash projections and claimed that the Museum's 2016 Fiscal Year audit papers were sloppy and non-functional. However, the Museum's most recent auditors represented to Mr. Athar that everything was in compliance and that the audited material was in better shape than the previous year. Glickman also falsely stated that Mr. Athar claimed management was a once-a-year function and that he offered to resign. Mr. Athar never made that statement and never offered to resign. As a coup de grace, Glickman claimed that Mr. Athar's skillset was unable to meet the needs of the Museum. Glickman made this final statement despite the Museum's ten-years of positive performance reviews of Mr. Athar.

FIRST CAUSE OF ACTION AGAINST DEFENDANTS
(DEPRIVATION OF RIGHTS IN VIOLATION OF 42 U.S.C. § 1981)

29. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

30. Mr. Athar is a member of a racial minority.

31. Defendants and/or their agents intended to discriminate against Mr. Athar on the basis of his race, religion, and national origin.

32. Defendants' discrimination concerned one of the activities protected by the Civil Rights Act of 1964, 42 U.S.C. § 1981, including, but not limited to, the right to make and enforce contracts.

33. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of the Civil Rights Act of 1964, 42 U.S.C. § 1981, Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

SECOND CAUSE OF ACTION AGAINST DEFENDANTS
(CONSPIRACY IN VIOLATION OF 42 U.S.C. § 1985)

34. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

35. Defendants' officers, agents, employees, and/or other representatives engaged in a conspiracy to deprive Mr. Athar of his rights.

36. Defendants engaged in multiple acts in furtherance of this conspiracy, as enumerated in the above paragraphs and incorporated by reference herein.

37. Defendants' conspiracy resulted in the deprivation of Mr. Athar's rights, including equal protection and due process, as a citizen of the United States, as protected by 42 U.S.C. § 1985.

38. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of 42 U.S.C. § 1985, Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and relief.

THIRD CAUSE OF ACTION AGAINST DEFENDANTS
(DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 2000)

39. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

40. Mr. Athar is a member of a protected class pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2.

41. Mr. Athar possessed proper qualifications for the Museum to grant him stellar performance reviews for ten years.

42. The circumstances previously herein set forth give rise to the inference of racial, religious, and national origin discrimination by Defendants.

43. Defendants' repeated discriminatory conduct adversely affected Mr. Athar's employment, resulting in his unlawful termination.

44. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2 § 703(a), Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

FOURTH CAUSE OF ACTION AGAINST DEFENDANTS
(RETALIATION IN VIOLATION OF 42 U.S.C § 2000e-3(a))

45. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

46. Mr. Athar opposed Defendants' unlawful employment practices pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a).

47. Defendants retaliated against Mr. Athar and adversely affected his employment, resulting in his termination.

48. The circumstances previously herein set forth give rise to the inference of retaliation.

49. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a), Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

FIFTH CAUSE OF ACTION AGAINST DEFENDANTS
(DISCRIMINATION IN VIOLATION OF N.Y. EXEC. LAW § 296(1))

50. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

51. Mr. Athar is a member of a protected class pursuant to N.Y. Exec. Law § 296(1).

52. Mr. Athar possessed proper qualifications for his position with Defendants.

53. Defendants' repeated unlawful discriminatory conduct adversely affected Mr. Athar's employment, resulting in his unlawful termination.

54. The circumstances previously herein set forth give rise to an inference of racial, religious, and national origin discrimination.

55. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of N.Y. Exec. Law § 296(1), Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

SIXTH CAUSE OF ACTION AGAINST DEFENDANTS
(RETALIATION IN VIOLATION OF N.Y. EXEC. LAW § 296(7))

56. Mr. Athar repeats and realleges every paragraph above as if fully set forth herein.

57. Mr. Athar opposed Defendants' unlawful employment practices pursuant to N.Y. Exec. Law § 296(7).

58. Defendants retaliated against Mr. Athar and adversely affected his employment, resulting in his termination.

59. The circumstances previously herein set forth give rise to the inference of retaliation.

60. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of N.Y. Exec. Law § 296(7), Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS
(DISCRIMINATION IN VIOLATION OF N.Y.C. ADMIN. CODE § 8-107)

61. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

62. Mr. Athar is a member of a protected class pursuant to N.Y.C. Admin. Code § 8-107.

63. Mr. Athar possessed proper qualifications for his position with Defendants.

64. Defendants' repeated unlawful discriminatory conduct adversely affected Mr. Athar's employment, resulting in his unlawful termination.

65. The circumstances previously herein set forth give rise to an inference of racial, religious, and national origin discrimination.

66. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of N.Y.C. Admin. Code § 8-107, Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment,

stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS
(RETALIATION IN VIOLATION OF N.Y.C. ADMIN. CODE § 8-107(7))

67. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

68. Mr. Athar opposed Defendants' unlawful employment practices pursuant to N.Y.C. Admin. Code § 8-107(7).

69. Defendants retaliated against Mr. Athar and adversely affected his employment, resulting in his termination.

70. The circumstances previously herein set forth give rise to the inference of retaliation.

71. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of N.Y.C. Admin. Code § 8-107(7), Mr. Athar suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

NINTH CAUSE OF ACTION AGAINST DEFENDANTS
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

72. Mr. Athar repeats and realleges every paragraph above, as if fully set forth herein.

73. Defendants' extreme and outrageous conduct was done intentionally or recklessly to cause severe emotional distress to Mr. Athar.

74. Defendants' conduct was so extreme and outrageous that it transcended the bounds of decency so as to be regarded as atrocious and intolerable in a civilized society.

75. Mr. Athar suffered and continues to suffer from extreme emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

WHEREFORE, Mr. Athar prays that the Court enter judgement in his favor and against Defendants, containing the following relief:

A. A declaratory judgment that actions, conduct, and practices of Defendants complained of herein violate the laws of the United States and the State and City of New York;

B. An injunction and order permanently restraining Defendants from engaging in such unlawful conduct;

C. An award of damages in the amount to be determined at trial, plus prejudgment interest, to compensate Mr. Athar for all monetary and/or economic harm;

D. An award of damages to be determined at trial, plus prejudgment interest, to compensate Mr. Athar for all non-monetary and/or compensatory harm, including but not limited to, compensation for mental anguish, humiliation, embarrassment, stress and anxiety, emotional pain and suffering, and emotional distress;

E. An award of damages for any and all other monetary/non-monetary losses suffered by Mr. Athar in an amount to be determined at trial, plus prejudgment interest;

F. An award of punitive damages;

G. An award of costs that Mr. Athar incurred in this action, as well as Mr. Athar's reasonable attorneys' fees to the fullest extent permitted by law; and

H. Such other and further relief as the Court may deem just and proper.

Date: New York, New York
December 7, 2017

Respectfully submitted,

Michael P. Hilferty (MH2205)
Matthew Crawford (MC0500)
The Law Offices of Vincent P. White
Attorneys for Mohad Athar
570 Lexington Avenue, 16th Floor
New York, New York 10022
(646) 380-0038

VERIFICATION

State of NJ

County of Somerset ss.:

Mohad Athar, being duly sworn, deposes and says: that he is the complainant herein; that he has read the foregoing complaint and knows the content thereof; that the same is true of his own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he belives the same to be true.

Mohad Athar

Sworn to before me this
7th Day of December, 2017

Notary Public

ROMIN R. SHAH
NOTARY PUBLIC OF NEW JERSEY
ID # 2384239
My Commission Expires 4/3/2019