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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO. EJ08FB-66929

[redacted]

COMPLAINANT,

v.

Textiles from Europe, Inc. d/b/a VCNY Home,

RESPONDENT.

CONSENT ORDER AND DECREE

WHEREAS, [redacted] (Complainant) filed a verified complaint with the New Jersey Division on Civil Rights (Division or DCR), on or about April 10, 2018, alleging that Textiles from Europe, Inc. d/b/a VCNY Home (Respondent), violated the New Jersey Family Leave Act (FLA), N.J.S.A. 34:11B-1 et seq; and

WHEREAS, [redacted] amended her verified complaint on or about January 30, 2019, alleging that Respondent violated both the FLA and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to -49 (the LAD); and

WHEREAS, Respondent is an employer that imports and manufactures textiles for home products and is headquartered in North Bergen, New Jersey with additional offices in Arkansas, China, and India; and

WHEREAS, Respondent is subject to the provisions of the LAD and the FLA; and

WHEREAS, Respondent hired Complainant in or around June 2016 as the Director of Marketing; and

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WHEREAS, Complainant notified Respondent she was pregnant in or around July 2017; and

WHEREAS, Complainant took maternity leave on or about January 2018;

WHEREAS, on or around April 10, 2018, Complainant filed a complaint with the Division and alleged that during her maternity leave, Respondent interfered with her right to take leave provided by the FLA to care for her newborn daughter and retaliated against her for asserting her FLA rights; and

WHEREAS, Complainant thereafter amended her verified complaint, alleging that when Complainant returned from maternity leave, she was denied a reasonable breastfeeding accommodation and discharged from her employment in reprisal and on account of her status as a breastfeeding mother in violation of the LAD and FLA; and

WHEREAS, the Respondent denies that any violation of the LAD or the FLA occurred and has made no admissions of liability; and

WHEREAS, the Division conducted an investigation of the allegations and issued, on January 10, 2020, a written determination finding probable cause to support all of Complainant's LAD and FLA allegations; and

WHEREAS, the matter was transmitted to the Office of Administrative Law for a hearing before the Honorable Nanci J. Stokes, ALJ; and

WHEREAS, prior to an adjudication on the merits and a determination of findings of fact, the parties participated in mediation with the Honorable Thomas R. Betancourt, ALJ; and

WHEREAS, the parties desire to resolve the matter without further litigation;

NOW, THEREFORE, it is agreed between the parties that:

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1. *Revised Practice:* Respondent hereby represents that all of its decisions affecting persons employed by Respondent have been made in good faith and with respect to all relevant laws and further agrees that all of its future decisions affecting persons employed with Respondent shall comply with the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 et seq., and that Respondent shall not implement any decision, policy, or procedure having the purpose or effect of discriminating against any individual on the basis of race, religion, national origin, gender, pregnancy or breastfeeding, sexual orientation, gender identity or expression, disability, or other protected characteristics in violation of the LAD. Respondent also agrees that in compliance with the LAD, it will not discriminate against individuals because they are pregnant or breastfeeding and will provide reasonable accommodations for pregnant or breastfeeding individuals consistent with the Pregnant Workers Fairness Act (PWFA), N.J.S.A. 10:5-12(s). Respondent also agrees that all of its decisions affecting persons employed with Respondent shall comply with the New Jersey Family Leave Act (FLA), N.J.S.A. 34:11B-1 et seq. and that Respondent shall not implement any decision, policy, or procedure having the purpose or effect of violating the rights of an employee under the FLA. In particular, Respondent agrees that in compliance with the FLA, it will not interfere with an employee's ability to use leave to care or bond with a newly born child or to use available FLA leave following leave taken under the federal Family Medical Leave Act.

2. *Retaliation*: Respondent acknowledges that pursuant to N.J.S.A. 10:5-12(d), the LAD, prohibits retaliation by an employer or former employer against any person who filed a complaint. Respondent acknowledges that such a provision, in this matter, includes a prohibition of any retaliatory conduct against Complainant, members of Complainants' immediate family, or any person who assisted in any action or proceeding under the LAD, or authorize any of its

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employees or agents to engage in any such conduct. Respondent also shall not attempt to prevent any person from exercising their rights under the LAD or the FLA, or participating in or assisting with any investigation or proceeding under the LAD or the FLA.

3. *Posting and Notice Requirements:* Respondent represents that it has complied and will continue to comply with all posting and notice requirements for employers pursuant to N.J.A.C. 13:8-1.2 and 13:8-2.2 in all of its New Jersey locations. The notices to be displayed pursuant to this paragraph may be obtained on the Division's website, www.njcivilrights.gov. Respondent shall display the Division's employment poster and its Family Leave Act poster in a place visible to employees and potential employees, including on any internal company website. By no later than fifteen (15) days of the date this Consent Order is fully executed, Respondent shall provide proof of compliance with this provision to the Division via NJBIAS and also by email to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov.

4. Notwithstanding Respondent's representation that its policies and procedures are fully compliant with all relevant laws, Respondent shall review and revise as necessary its anti-discrimination and anti-harassment written policies to ensure consistency with the LAD, including the PWFA within forty-five (45) days of the date this Consent Order is fully executed,. At minimum, Respondent shall ensure its anti-discrimination and anti-harassment policies:

a. State that the LAD prohibits discrimination, harassment, and retaliation in the workplace and that such conduct will not be tolerated;

b. Explain the specific protections afforded to individuals under the LAD;

c. Specifies procedures for receiving, investigating, and responding to a discrimination or harassment complaint, which includes steps to ensure that an

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investigation of a complaint of discrimination or harassment is impartial, neutral, and to the extent possible remains confidential;

d. Identifies the person by name, title, and contact information who will receive complaints, and identify an alternate person if the initial contact person is unavailable or may have a conflict;

e. Explains that retaliation against any person filing a complaint or providing information in connection with a complaint is prohibited; and

f. Include a statement that any person who believes a violation of the LAD has occurred may contact the New Jersey Division on Civil Rights at www.NJCivilRights.gov or 833-NJDCR4U (833-653-2748) and may file a complaint with DCR within 180 days of the incident.

Respondent agrees to provide written verification to the Division that it has conducted the review required by this paragraph and will deliver a copy of these written policies to the Division, via NJBIAS with a courtesy copy to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov, at least five business days in advance of its adoption. Respondent may fulfill its distribution obligation under this provision by distributing its policies in accordance with its annual distribution methods.

5. Notwithstanding Respondent's representation that its policies and procedures are fully compliant with all relevant laws, Respondent shall review and revise as necessary its written policies to ensure consistency with the NJ FLA within forty-five (45) days of the date this Consent Order is fully executed. Respondent agrees to provide written verification to the Division that it has conducted the review required by this paragraph and will deliver a copy of these written policies to the Division, via NJBIAS with a courtesy copy to Deputy Attorney General Farng-Yi

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D. Foo at Farng-Yi.Foo@law.njoag.gov, at least five business days in advance of its adoption. Respondent may fulfill its distribution obligation under this provision by distributing its policies in accordance with its annual distribution methods.

6. *Pregnancy Leave Policy and Procedure:* Notwithstanding Respondent's representation that its policies and procedures are fully compliant with all relevant laws, Respondent agrees to review and revise as necessary its pregnancy leave and accommodation policies to ensure compliance with the Pregnant Workers Fairness Act (PWFA) within forty-five (45) days of the date this Consent Order is fully executed. At minimum, Respondent shall ensure employees receive written notice that:

a. Pursuant to N.J.A.C. 13:14-1.6(b)(1), "[i]f an employee first takes FMLA leave because of [] her own disability, including a disability related to pregnancy or childbirth, the employee would be entitled to an additional 12 weeks of leave within 24 months under the [FLA] to care for a seriously ill family member or a newly born or adopted child, because the prior disability was taken for a purpose not covered by the [FLA];"

b. A reasonable accommodation in the workplace for needs related to pregnancy or breastfeeding shall be made available to a pregnant or breastfeeding employee unless the employer can demonstrate that providing the accommodation would be an undue hardship on the business operations of the employer;

c. A reasonable accommodation in the workplace for needs related to pregnancy or breastfeeding may include bathroom breaks, breaks for increased water intake, periodic rest, assistance with manual labor, job restructuring or modified work schedules, and temporary transfers to less strenuous or hazardous work;

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d. A reasonable accommodation for breastfeeding includes a reasonable break time each day to the employee and a suitable room or other location with privacy, other than a toilet stall, in close proximity to the work area for the employee to express breast milk for the child; and

e. A violation of the PWFA may occur where an employer penalizes an employee in terms, conditions or privileges of employment for requesting or using an accommodation related to pregnancy or breastfeeding.

Respondent shall consider when reviewing an employee's breastfeeding accommodation request, that the proper refrigeration of breast milk for preservation is an important aspect of such a request. Respondent agrees to provide written verification to the Division that it has conducted the review required by this paragraph and will deliver a copy of this written notice to the Division, via NJBIAS with a courtesy copy to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov, at least five business days in advance of its distribution.

7. *Training for NJ Human Resources Employees*: Within ninety (90) days of the date this Consent Order is fully executed, Respondent shall arrange for training on the LAD; the NJ FLA; and Respondent's pregnancy and accommodation policies for all human resource employees who handle and process pregnancy leave and accommodation requests in New Jersey. This training shall contain a component on implicit bias and pregnancy discrimination. Such training shall also include a discussion on the requirement to engage in an interactive process with an employee to determine an appropriate accommodation. Such training shall be conducted by a person with knowledge of state and federal antidiscrimination laws. Individuals receiving this training shall have the opportunity to ask questions during the training. Respondent will provide to the Division, via NJBIAS, any materials to be used in this training, including but not limited to

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handouts and a copy of any PowerPoint slides, and the name of the person who will provide the training, at least ten days in advance of the scheduled training. Upon completion of this training, Respondent shall certify that such training was provided to all of its employees in accordance with its obligations under this Agreement, identify by name and title the individuals trained, and provide the date(s) on which the training occurred. Respondent shall provide proof of compliance with this provision via NJBIAS with a courtesy copy to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov.

8. *Training for Supervisors, Managers, and Owners:* Within ninety (90) days of the date this Consent Order is fully executed, Respondent shall arrange for training on the LAD; the NJ FLA; and Respondent's Anti-discrimination, Pregnancy leave and Accommodation Policies for all supervisors, managers, and owners. This training shall contain a component on implicit bias and pregnancy discrimination. Such training shall also include a discussion on the requirement to engage in an interactive process with an employee to determine an appropriate accommodation. Such training shall be conducted by a person with knowledge of state and federal antidiscrimination laws. Individuals receiving this training shall have the opportunity to ask questions during the training. Respondent will provide to the Division, via NJBIAS, any materials to be used in this training, including but not limited to handouts and a copy of any PowerPoint slides, and the name of the person who will provide the training, at least ten days in advance of the scheduled training. Upon completion of this training, Respondent shall certify that such training was provided to all supervisors, managers, and owners in accordance with its obligations under this Agreement, identify by name and title the individuals trained, and provide the date(s) on which the training occurred. Respondent shall provide proof of compliance with this provision via

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NJBIAS with a courtesy copy to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov.

9. *Recordkeeping:* Respondent agrees to maintain records of all pregnancy-related leave requests and all pregnancy-related or breastfeeding-related accommodation requests made for a period of at least three years, unless a longer period is required by any federal or state law or regulation. These records shall be maintained at Respondent's premises. Respondent shall make such records available to the Division upon the Division's written request.

10. *Reporting*: For a period of three (3) years from the date this Consent Order is fully executed, Respondent shall submit reports to the Division. These reports shall include notice of any pregnancy-related leave requests; pregnancy-related or breastfeeding-related accommodation requests received by Respondent; and any complaints, whether filed internally, in court or with an administrative agency, alleging pregnancy discrimination and/or failure to provide reasonable accommodation to individuals who are pregnant or breastfeeding. Respondent shall provide a report divided in three sections. The first section, titled "Pregnancy-related Leave Requests" will include a chart or spreadsheet with the following for each request:

a. Employee's initials;
b. Total amount of leave time requested
c. Amount of FMLA time requested;
d. Amount of FLA time requested;
e. Amount of "other" time requested;
f. Total amount of leave taken;
g. Amount of FMLA taken;
h. Amount of FLA taken;
i. Amount of "other" time taken;

The second section, titled "Pregnancy or Breastfeeding Accommodations," shall include a chart or spreadsheet with the following for each request:

a. Employee's initials
b. Short description of pregnancy or breastfeeding accommodation requested;

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c. Date of request;
d. Whether the request was granted, denied or an alternative accommodation provided;
e. If an alternative accommodation, provide details of the type of accommodation offered.
f. If denied, provide information concerning the basis of the denial.

The third section, titled, "Pregnancy-related or breastfeeding-related Complaints," shall include a chart or spreadsheet with the following for each response:

a. Date complaint filed
b. Forum of complaint (internally, in Superior Court, in Federal Court, or with the EEOC or DCR)
c. Status (received, investigating, dismissed, settled, etc.)

These reports and any documents provided with them pursuant to this paragraph will be considered investigative records pursuant to N.J.A.C. 13:4-13.1. The first report should be submitted on March 1, 2022 and provide information from the prior year. Subsequent reports shall be submitted on or before February 1, 2023 (covering the period January 1 through December 31, 2022); February 1, 2024 (covering the period January 1 through December 31, 2023); and February 1, 2025 (covering the period January 1 through December 31, 2024). Nothing herein shall preclude the Division from seeking the information required under this provision from Respondent in a shorter time frame during the monitoring period. All reports shall be submitted to the Division via NJBIAS with a courtesy copy sent to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov.

11. *Monetary Relief to Complainant*: By no later than thirty (30) days of the date this Consent Order is fully executed, Respondent shall pay to Complainant the total sum of one hundred and ninety-five thousand ($195,000) dollars and such payment shall constitute full and final settlement of all of the Complainant's claims against Respondent, which arise from the allegations

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asserted in DCR Docket No. EJ08FB-66929 and the complaint filed with the Equal Employment Opportunity Commission assigned Federal Charge No. 17E-2019-00092. Of this total amount, fifty thousand ($50,000) is viewed as lost wages; one hundred and forty thousand ($140,000) is viewed as emotional damages and medical expense reimbursement; and five thousand ($5,000) is considered punitive damages under the NJ FLA. With respect to lost wages, Respondent shall pay fifty thousand ($50,000) in lost wages, less appropriate withholdings and deductions and shall issue a W-2 in connection with the payment of lost wages. Respondent shall issue a 1099 in connection with the one hundred and forty-five dollar ($145,000) payment and Complainant shall be responsible for all local, state, and federal taxes related to such payment. The payment(s) shall be made payable to Complainant and be sent to Complainant at an address provided to Respondent. Respondent shall submit to the Division written confirmation that payment was made to Complainant via NJBIAS with a courtesy copy to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov.

12. *Release*: In consideration of the monetary payment and relief as set forth in paragraph 11, Complainant releases and discharges Respondent, and its current, past, and future officials, employees, and agents, of and from any and all legal and equitable claims she may have against it, arising out of, related to or connected with any of the allegations or possible causes of action that could have been brought in DCR Complaint No. EJ08FB-66929 and EEOC Charge No. 17E-2019-00092, both original and amended charges.

13. *Payment in lieu of penalty/costs of the investigation*: By no later than 30 days of the date this Consent Order is fully executed, Respondent shall pay the total sum of five thousand dollars ($5,000) to the Division as a payment in lieu of penalty and administrative costs related to the Division's investigation. Respondent shall pay this amount by check or money order made

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payable to "Treasurer, State of New Jersey." The payment shall be delivered to Deputy Attorney General Farng-Yi D. Foo at 124 Halsey Street – 5th Floor; Newark, NJ 07102. By no later than 30 days of the date this Consent Order is fully executed, Respondent shall submit written confirmation of payment via NJBIAS with a courtesy copy to Deputy Attorney General Farng-Yi D. Foo at Farng-Yi.Foo@law.njoag.gov.

14. This Consent Order and Decree shall have the same force and effect as a cease and desist order issued by the Director pursuant to N.J.S.A. 10:5-19 and shall operate as a complete and final disposition of the aforesaid verified complaint as to Respondent, subject only to the fulfillment of all the foregoing provisions.

15. Respondent agrees and understands that its failure to comply with any of the terms or provisions of this Agreement shall constitute a breach of the agreement.

16. In the event that Respondent fails to comply with any provision of this Agreement, Respondent hereby consents to entry of this Consent Order and Decree in the Chancery Division of the Superior Court of New Jersey, thereby making this Consent Order and Decree an order of the Court for enforcement therein. Where a dispute arises regarding Respondent's compliance, the Division and Respondent shall first attempt in good faith to resolve the dispute before seeking the court's intervention. The Division shall provide Respondent with written notice of its noncompliance and provide Respondent fifteen (15) days to cure its noncompliance before seeking relief from the Court. The Division retains discretion to determine whether Respondent has fully complied with the provisions of this Agreement.

17. This Consent Order and Agreement resolves the allegations against Respondent set forth in the verified complaint filed by Complainant, DCR Docket No. EJ08FB-66929 and the complaint filed with the Equal Employment Opportunity Commission assigned Federal Charge

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No. 17E-2019-00092, both original and amended charges. Nothing herein shall be construed to limit the Office of the New Jersey Attorney General or the New Jersey Division on Civil Rights in the exercise of their authority to act in the public interest in any future or pending matter involving Respondent other than DCR Docket No. EJ08FB-66929.

18. This Consent Order constitutes the entire agreement between Complainant, Respondent and the Division. There are no other agreements, promises, understandings, obligations, covenants or representations among them. Any changes or amendments to this Consent Order must be in writing and signed by all parties.

19. This Consent Order shall be binding upon the parties to this agreement and their successors and assigns. In no event shall assignment of any right, power or authority avoid compliance with the terms of this Consent Order.

20. This Agreement is entered into by the parties for settlement purposes only. Neither the fact of this Agreement nor any provision contained herein shall constitute an approval, sanction, or authorization by any governmental unit of the State of any act or practice of Respondent, nor does this agreement construe any admissions of liability on behalf of Respondent.

21. This Agreement shall be governed and interpreted in all respects in accordance with the laws of New Jersey, without regard to principles of conflicts of law.

22. The parties to this Consent Order represent that a person authorized to sign a document legally binding each party to its terms has signed this Consent Order with full knowledge, understanding, and acceptance of its terms.

23. Complainant acknowledges that she has been provided the opportunity to review the terms of this Agreement, and the opportunity to retain counsel of her choosing as to its effects, and that she understands and agrees to her rights and obligations under this Agreement.

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24. Respondent acknowledges that it has been provided the opportunity to review the terms of this Agreement, and the opportunity to retain counsel of its choosing as to its effects, and that it understands and agrees to its obligations under this Agreement.

25. Any signature for the entry of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same Consent Order. The parties agree that this Agreement may be signed electronically, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

26. As used in this Agreement, the plural shall include the singular and the singular shall include the plural. In addition, "or" and "and" shall be interpreted conjunctively.

27. If any portion of this Agreement is held invalid or unenforceable by operation of law, the remaining terms of this Agreement shall not be affected.

DocuSigned by:
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2/3/2022

ROSEMARY DISAVINO, DEPUTY DIRECTOR
NEW JERSEY DIVISION ON CIVIL RIGHTS

DATE

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THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS CONSENT ORDER:

RESPONDENT:

Textiles from Europe, Inc. d/b/a VCNY Home

Signature: haskel cohen

Print name: HASKEL COHEN

Title: Owner

Dated: 2/3/2022

COMPLAINANT

[redacted]

Signature: [redacted]

Dated: 2/2/2022