

SUPREME COURT OF THE STATE OF NEW YORK
NIAGARA COUNTY

-----X
PEOPLE OF THE STATE OF NEW YORK, by
ANDREW M. CUOMO, Attorney General of the State
of New York,

Plaintiff,

-against-

THE CITY OF NIAGARA FALLS and
THE NIAGARA FALLS POLICE DEPARTMENT,

Defendants.

STIPULATED ORDER
ON CONSENT

Index No.

IAS Part _____

Assigned to Justice

-----X
This Stipulated Order on Consent (“Order”) is entered into by Plaintiff, THE PEOPLE OF THE STATE OF NEW YORK, by ANDREW M. CUOMO, ATTORNEY GENERAL OF THE STATE OF NEW YORK, and DEFENDANTS, THE CITY OF NIAGARA FALLS, a municipal corporation, and THE NIAGARA FALLS POLICE DEPARTMENT, a division of the City.

WHEREAS Article I, Section 11 of the Constitution of the State of New York; New York Civil Rights Law § 40-c; the Fourth and Fourteenth Amendments to the Constitution of the United States; and New York Executive Law §63(12) prohibit the excessive use of force by municipal police officers, race discrimination by government entities and repeated instances of illegality;

WHEREAS, pursuant to the provisions of Section 63(12) of the New York Executive Law, Andrew M. Cuomo, Attorney General of the State of New York (“OAG”) and upon receiving complaints, has conducted an inquiry into the policies and practices of the Niagara

Falls Police Department (“NFPD”), a division of the City of Niagara Falls (“Niagara” or “the City”);

WHEREAS, the OAG’s investigation included a review of NFPD policies, practices and procedures regarding the use of force, training, reporting and accountability; internal NFPD investigatory files of departmental and citizen complaints; personnel evaluations of officers who used force more than five times in a single year; and a review of complaints from residents in Niagara Falls;

WHEREAS, the complaints from primarily African-American residents allege and documents indicate that the NFPD has not implemented policies and procedures to adequately investigate and prevent excessive use of force, including by physical force, Taser instruments, and oleoresin capsicum spray (“OC spray”); and that some officers and supervisors failed to follow department protocols that did exist to ensure proper police practice, including regarding the use of force and citizen encounters and the filing of reports on use of force to ensure proper practices and accountability.

WHEREAS, following an investigation of the NFPD’s policies and practices, the Attorney General, on behalf of the People of the State of New York, commenced the above-captioned action through the filing of a complaint in New York State Supreme Court alleging violations of state and federal laws;

WHEREAS the City has, since the commencement of the investigation, implemented some changes and indicated its desire to continue to reform its police policies and procedures to ensure appropriate use of force in all instances; respectful and effective policing; and fair and equal treatment of all citizens, regardless of race, color and/or national origin;

WHEREAS in consideration of the covenants and undertakings set forth herein and intending to be legally bound thereby, the Attorney General, on behalf of itself and the People of the State of New York, and the City of Niagara Falls, have agreed to the terms of this Order;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the City of Niagara Falls, the NFPD and the OAG, as follows:

PART ONE: DEFINITIONS

- 1.1 “The City” means the City of Niagara Falls and all of its agents and employees, including the Niagara Falls Police Department.
- 1.2 “Effective Date” means the date this Order is executed by the parties thereto.
- 1.3 “Independent Auditor” or “Auditor” means the individual or organization hired pursuant to Part Three of this Order.
- 1.4 “NFPD” means the Niagara Falls Police Department.
- 1.5 “Order” means this Stipulated Order on Consent.
- 1.6 “Use of force incident” means any incident involving any employee’s use of physical force pursuant to her or her duties as a member of the NFPD, including any exertion of physical force and the use of NFPD-issued equipment, including batons, OC spray, Taser instruments and any other weapons issued by the NFPD.
- 1.7 Terms of Construction
 - a. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the meaning inclusive rather than exclusive.
 - b. “Including” means without limitation.
 - c. The use of the singular form of any word includes the plural and vice versa.

PART TWO: COMPLIANCE WITH THE LAW

- 2.1 The City will comply fully with the obligations, terms and conditions of Article I, § 11 of the Constitution of the State of New York, New York Civil Rights Law § 40-c, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

PART THREE: INDEPENDENT AUDITOR

- 3.1 The City of Niagara Falls shall retain, at its own expense, a qualified individual or organization from outside the NFPD to serve as an Independent Auditor, who shall be primarily responsible for consulting with a designated NFPD official in the creation and revision of the policies and training protocols referenced in this Order and for auditing NFPD compliance with the terms of this Order. The Auditor shall have sufficient experience in the subject matter of police practices, internal investigations, police training and use of force issues. The Auditor shall have unrestricted access to NFPD files, records and personnel in order to audit compliance with this Order. The selection of the Auditor shall be subject to OAG approval.
- 3.2 The Independent Auditor shall conduct periodic reviews of officer personnel files, Use of Force Reports, the Use of Force Database and associated monthly reports, and complaint investigation files, to assess compliance with NFPD policies and with this Order.
- 3.3 The Independent Auditor shall be in regular contact with the OAG and shall submit quarterly annual reports to the OAG outlining the NFPD's compliance with each provision of this Order.
- 3.4 The Independent Auditor shall have only the duties, responsibilities, and authority conferred by this Order. Based on the Auditor's review of NFPD policies, practices and documents, the Auditor may make recommendations to the parties regarding measures

necessary to ensure full and timely implementation of this Order. Any such recommendations by the Auditor shall be implemented at the discretion of the OAG.

PART FOUR: USE OF FORCE POLICY

- 4.1 Within thirty (30) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall amend its Use of Force Policy to include a use of force continuum encompassing all instruments and weapons NFPD officers are authorized to carry and describing the appropriate use of each in relation to the others. This policy shall describe how the various force options may be used, how different applications of these force options affect their placement in the use of force continuum, and what level of force is appropriate and not appropriate in response to a civilian's conduct and, if relevant, level of resistance. The Use of Force Policy shall be subject to the approval of the OAG.

PART FIVE: USE OF FORCE REPORTING

- 5.1 Within sixty (60) days of the Effective Date, the NFPD shall require Use of Force Reports to be completed and submitted by the reporting officer to the reviewing supervisor who responded to the scene within twenty-four (24) hours of any use of force incident. In accordance with recently revised NFPD practices, Use of Force Reports must be accompanied by incident reports and, if applicable, arrest reports.
- 5.2 The NFPD shall ensure that all Use of Force Reports shall be reviewed, evaluated and signed by the supervisor who responds to the scene, who shall attach his or her own narrative report documenting: (a) his or her response to the scene; (b) examination of the subject for injury; (c) identification of all witnesses at the scene; (d) identification of all

officers at the scene; (e) an indication of whether any injury occurred; and (f) whether medical care was provided and the extent of such care that was necessary.

5.3 Discipline shall be imposed on officers who fail to submit complete, accurate, and timely reports, consistent with New York State law and relevant collective bargaining agreements. As part of the Use of Force policy referenced in Paragraph 4.1, the NFPD shall create a written policy outlining the type and degree of discipline that shall be imposed with each offense, consistent with New York State law and relevant collective bargaining agreements.

5.4 The revised Use of Force Reporting policy shall be subject to the approval of the OAG.

PART SIX: SUPERVISORY OVERSIGHT OF THE USE OF FORCE

6.1 Upon the implementation of the Use of Force policy and Reporting Protocol set forth in Parts Four and Five, a supervising officer shall conduct a review of all uses of force occurring during a specific incident within three (3) business days after a use of force report is made. The supervising officer shall interview all witnesses to the incident and ensure that all NFPD witnesses provide a signed narrative regarding the incident. Supervisors will evaluate the basis for the use of force and the type and amount of force used and determine whether the officer's actions were in compliance with NFPD policy. The supervisor's use of force review will include a precise description of the facts and circumstances that either justify or fail to justify the officer's conduct. Supervisors shall consider all relevant evidence including circumstantial, direct and physical evidence, and make credibility determinations, making all reasonable efforts to resolve material inconsistencies between witness statements.

- 6.2 The supervisor who reviews the incident must hold a rank at least one rank above the rank of any officer involved in the use of force, unless a captain is involved in the use of force incident, in which case OPS shall conduct the initial review for the review and approval of the Superintendent. Any officer who used force during the incident, or who authorized conduct leading to the use of force, will not be eligible to review the incident.
- 6.3 All Use of Force Reports and documentation associated with the review of the incident shall be forwarded to the OPS for review. In accordance with recently revised NFPD practices, OPS shall review Use of Force Reports on a daily basis and shall also review incident reports and arrests reports to ensure that Use of Force Reports have been submitted as required by NFPD policy.
- 6.4 Discipline shall be imposed on supervisors for failure to respond to use of force incidents involving officers under their supervision, and for failure to conduct timely and complete reviews of Use of Force Reports and use of force reviews, consistent with relevant collective bargaining agreements.
- 6.5 Within thirty days (30) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall submit a written policy outlining the type and degree of discipline that shall be imposed with each offense, consistent with New York State law and relevant collective bargaining agreements, for approval by the OAG.

PART SEVEN: INTERNAL REVIEW OF THE USE OF FORCE

- 7.1 In accordance with recently revised NFPD practice, OPS shall independently review and evaluate each use of force review conducted by supervisors for each use of force incident, identify any deficiencies, and require supervisors to correct any deficiencies.

- 7.2 OPS shall open an independent investigation of any incident where a Use of Force Report or use of force review indicates a possible violation of NFPD policies or law, or where a use of force results in a serious injury. This investigation shall be conducted as if a Form 16B department-initiated or citizen complaint had been filed regarding the incident.

PART EIGHT: USE OF FORCE DATA COLLECTION AND REVIEW

- 8.1 Within ninety (90) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall amend its Use of Force Database, to include, at a minimum, (a) the date of each use of force incident; (b) all officers involved in the use of force incident; (c) the name of the subject of the force; (d) the type of force used; (e) the supervisor who responded to the scene; (f) any injuries that occurred; (g) any arrests that occurred; (h) on what charges arrests were made; and (i) the race of the civilians involved, as observed by the officers on the scene. The NFPD may add additional fields to the Use of Force Database, as appropriate, subject to the approval of the Independent Auditor. The NFPD shall designate an employee with appropriate knowledge of data and data analysis to be responsible for the Use of Force Database.
- 8.2 This database shall be searchable and shall be capable of being sorted by officer, supervisor, and shift or unit, and capable of statistical analysis. The Use of Force Database shall be capable of analyzing the data therein according to the following criteria: (a) the number of incidents for each data category by individual officer and by all officers in a particular shift or unit; (b) average level of activity for each data category by individual officer and by all officers in a particular shift or unit; and (c) identification of patterns of activity for each data category by individual officer and by all officers in a particular shift or unit.

- 8.3 Monthly reports shall be generated from the Use of Force Database describing and identifying individual and unit patterns according to the above criteria, which shall be circulated to the Superintendent and Deputy Superintendent and all supervisors.
- 8.4 Use of Force Reports shall be reconciled with the Use of Force Database on a monthly basis to ensure that all required reports have been submitted by officers and supervisors. OPS shall be ultimately responsible for ensuring that all Use of Force Reports have been completed as required.
- 8.5 OPS shall analyze use of force data in the Use of Force Database on monthly and annual basis to detect trends in NFPD use of force, including Taser instrument use. OPS shall categorize and analyze use of force data by individual officer, unit, patrol shift, and by type of force used, to identify any trends. Based on this analysis, OPS shall make recommendations to supervisors and the Superintendent for actions to enable or encourage officers to modify or improve performance and/or prevent potential misconduct and inappropriate uses of force, including additional training, monitoring counseling, reassignment or transfer of officers.

PART NINE: USE OF FORCE TRAINING

- 9.1 The NFPD shall incorporate mandatory training on the use of force for all its officers and supervisors as part of NFPD annual training requirements.
- 9.2 The Use of Force training shall include:
- a. Training on the use of force continuum created pursuant to Paragraph 4.1 of this Order which shall describe all instruments and weapons NFPD officers are authorized to carry and the appropriate use of each. This training shall include but not be limited to review of NFPD policies on each instrument and weapon

NFPD are authorized to carry, including policies for the use of OC spray, Taser instruments and all other instruments approved and issued by the NFPD. This training shall also include but not be limited to specific examples and role playing illustrating the appropriate level of force, including what level of force is appropriate and not appropriate in response to suspects' conduct;

- b. Training on the use of verbal de-escalation techniques as an alternative to the use of Taser instruments, OC spray, or any other use of force;
- c. Training on the use of Taser instruments, which shall include but not be limited to discussion and role playing of situations in which use is and is not appropriate. The training protocol shall include appropriate reference to the use of force continuum, instruction as to how to assess relevant factors before use, and discussion of specific examples of situations that do not require use of the Taser but may be commonly mishandled.

9.3 The Use of Force training shall be devised in consultation with the Independent Auditor and subject to the approval of the OAG.

9.4 Within thirty (30) days of the date of approval of the revised use of force policies, the NFPD shall conduct training for all officers, including all lieutenants and captains, on:

- a. NFPD policies for the use of force and the use of force continuum;
- b. Officer responsibilities for completing timely and accurate Use of Force Reports;
- c. Supervisory responsibilities for oversight and monitoring compliance with use of force policy by subordinates;
- d. Supervisory responsibilities with respect to responding and independently investigating a use of force incident and completing Use of Force Reports; and

e. Supervisory responsibilities for completing use of force reviews.

9.5 The NFPD shall maintain written records documenting all training of officers required by this Order, including the name of the officer, the dates of training, the general subject matter and length of each training session, and whether the training was completed satisfactorily.

PART TEN: INTERNAL INVESTIGATIONS OF COMPLAINTS

Investigatory Process

10.1 Within sixty (60) days of the hiring date of the Independent Auditor, OPS, in consultation with the Independent Auditor, shall amend its protocol for processing and investigating all complaints of misconduct against its personnel. This amended protocol shall include, but not be limited to:

- a. A requirement that all investigations of complaints be completed within thirty (30) days of receipt of the complaint, unless documented extensions are granted by the Superintendent;
- b. A requirement that all subject and witness officers, including supervisors, be individually interviewed about the incident;
- c. A requirement that all supervisors present at the scene or called to the scene be required to detail their handling of any matters during and after the incident and their observations of the complainant and accused officers and any actions taken by the supervisor;
- d. A requirement that all civilian witnesses be interviewed regarding the incident to the extent practicable;

- e. A requirement that inconsistencies between officer and witness interview statements gathered during the investigation be identified and reported in writing;
- f. Instructions that complainant allegations will be judged by the preponderance of the evidence standard, and;
- g. Guidelines for notifying complainants of the status of the investigation and of ultimate findings, including a requirement that upon resolution of a complaint, the NFPD shall inform the complainant, in writing, of the disposition and results of the investigation, the general reasons for the findings, and whether remedial actions were taken. If an investigation will not be completed within thirty (30) days, the complainant shall be notified in writing.

10.2 Within sixty (60) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall revise its policies concerning internal investigations of complaints to clearly delineate the respective authority and responsibility of supervisors and OPS to investigate incidents of potential misconduct, including the following:

- a. OPS shall be responsible in the first instance for investigating all complaints containing allegations of serious misconduct, whether the complaint is made by the NFPD or by a citizen, including complaints of excessive force, discriminatory law enforcement, and corruption, in addition to any other types of alleged misconduct designated by the NFPD;
- b. In accordance with current NFPD policy, the Superintendent may, in his or her discretion, designate that a Shift Supervisor be primarily responsible for

investigating allegations of lesser magnitude, such as officer rudeness and insubordination;

- c. The primary investigator for any allegation must hold at least one rank above that of the officer the complaint is made against; and
- d. OPS shall investigate all complaints made against or involving captains.
- e. In deciding the appropriate discipline for each officer who is the subject of a substantiated misconduct allegation, the NFPD should consider the nature and scope of the misconduct and the involved officer's history of misconduct investigations and discipline, consistent with New York State law and relevant collective bargaining agreements.
- f. Where an allegation is neither corroborated nor exonerated, the NFPD shall consider whether to require training, counseling, or other remedial non-disciplinary measures for officers who are the subject of misconduct investigations. Factors may include whether the officer or officers in question have been the subject of multiple complaints or have a higher incidence of use of force.

10.3 The revised protocols, including the policies for processing and investigating complaints of misconduct and the allocation of investigative authority between OPS and supervisors, shall be subject to the approval of the OAG.

Filing of Complaints

10.4 The NFPD shall memorialize in writing and make available to the public its policies and procedures for filing a complaint, which shall be provided to citizens free of charge upon written or verbal request.

- 10.5 Within thirty (30) days of the Effective Date, in addition to current NFPD practices of making complaint forms available at the station house and on the internet, the NFPD shall accept complaints by telephone through OPS and shall make complaint forms available externally to community groups and at community centers.
- 10.6 Anonymous and third-party complaints shall be accepted and investigated utilizing the same process as all other citizen complaints to the extent practicable.
- 10.7 OPS shall prepare an annual statistical summary of the activities of the unit, including the number, type, and disposition of investigations conducted and the officers involved in each. These summaries shall be distributed to the Superintendent and Deputy Superintendent and all supervisors.

PART ELEVEN: TRACKING AND AUDITING OFFICER BEHAVIOR

- 11.1 The NFPD, in consultation with the Independent Auditor, shall devise a proposal to enhance its recently implemented Early Warning System (“EWS”).
- 11.2 Within sixty (60) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall supplement the list of indicators considered in the enhanced EWS and outline specific criteria sufficient to trigger OPS and Command-level intervention. The list of indicators considered shall include, but not be limited to:
- a. Use of force incidents;
 - b. The number of arrests where the only charges are considered discretionary, including disorderly conduct, resisting arrest, and obstructing government administration;
 - c. The number of times force was used during discretionary arrests;

- d. Citizen complaints;
- e. Civil suits or administrative complaints; and
- f. The percentage of arrests and civilian encounters that involve the use of force.

The list of EWS indicators and the criteria for triggering OPS and Command-level intervention shall be subject to the approval of the OAG. During the duration of the Order, the Independent Auditor shall have the authority to recommend revisions to the EWS system, subject to the approval of the OAG. All EWS indicators shall be tracked in the Use of Force Database and shall be regularly monitored to determine whether any triggers for OPS or Command-level intervention have been met.

- 11.3 Within sixty (60) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall create written policies for intervention options for when EWS intervention criteria are triggered, subject to the approval of the OAG. Upon triggering of the EWS, OPS and the Superintendent, in consultation with the officer's immediate supervisor, shall decide which options are appropriate for the officer's circumstances, consistent with New York State Law and relevant collective bargaining agreements. Intervention options shall include, but not be limited to, mandatory retraining in a specific area or areas, ongoing monitoring by supervisors, fitness for work evaluations, counseling, temporary reassignment, and transfer.
- 11.4 During the annual officer performance evaluation process, supervisors shall be required to review the information for each officer being evaluated in the Use of Force Database for the previous twelve months. As part of the evaluation process, annual meetings shall be held between supervisors and subordinates to discuss the performance evaluation,

including review of any minor supervisory reprimands and/or referrals to remedial counseling or training throughout the year.

- 11.5 Annual reports listing the number of uses of force, number of arrests, and number and bases of citizen complaints against each officer shall be circulated to the Superintendent, the Deputy Superintendent and all supervisors.

PART TWELVE: COMMUNITY RELATIONS

- 12.1 Within ninety (90) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall create a training protocol on citizen encounters, including supervisory responsibility to ensure adherence to the policy by subordinates. This training shall be subject to the approval of the OAG. Upon OAG approval, this training shall be conducted for all officers and supervisors within thirty (30) days. In the future, all new recruits shall receive this training.
- 12.2 Within ninety (90) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall create a training protocol on cultural diversity, which shall include training on interactions with persons of different races, ethnicities, religious groups, sexual orientations, persons of the opposite sex, and persons with disabilities. This training shall be subject to the approval of the OAG. Upon OAG approval, this training shall be conducted for all officers and supervisors within thirty (30) days. In the future, all new recruits shall receive this training.
- 12.3 Within ninety (90) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall create a training protocol on its policy for conduct during citizen encounters, including supervisory responsibility to ensure adherence to the policy by subordinates. This training shall be subject to approval of the

OAG. Upon OAG approval, this training shall be conducted for all officers and supervisors within thirty (30) days. In the future, all new recruits shall receive this training.

12.4 Progressive discipline shall be imposed on officers for failure to follow the NFPD policy for conduct during citizen encounters. The NFPD shall create a written policy outlining the type and degree of discipline that shall be imposed for each offense, consistent with New York State law and relevant collective bargaining agreements, and subject to approval of the OAG.

12.5 Within one hundred and twenty (120) days of the hiring date of the Independent Auditor, the NFPD, in consultation with the Independent Auditor, shall create a community policing strategy to increase community interaction and support to improve residents' participation in and satisfaction with police services. This plan shall include but not be limited to strategies for increasing community partnerships and collaboration, processes for identifying, evaluating and responding to breakdowns in community-police relations, and options for changes to departmental structure, training or personnel to promote community collaboration. This plan shall be subject to the approval of the OAG. Upon OAG approval, this plan shall be implemented by the NFPD.

12.6 For three (3) years from the Effective Date, the NFPD shall conduct public meetings at least once every six months which shall include but not be limited to:

- a. Presentations and information about the NFPD and its operations, including initiatives to increase community participation in policing, which shall be designed to increase interaction between the NFPD and residents of the City;

- b. Information about the methods for filing a complaint against an officer, and information about how complaints are investigated; and
- c. Providing members of the public an opportunity to raise concerns relating to police conduct.

At least seven (7) days prior to each meeting, the NFPD shall post public notice of the meeting in public areas, such as community boards, Neighborhood Associations, and on the NFPD and City of Niagara Falls websites.

PART THIRTEEN: ADJUDICATION OF CLAIMS

- 13.1 Within ninety (90) days of the Effective Date, the OAG will select and designate three individuals to serve on an arbitration panel to evaluate individual complaints filed with the NFPD and/or the OAG within three (3) years prior to the Effective Date of this Consent Decree. The arbitration panel ("panel") shall be responsible for overseeing the claims process, evaluating individuals' eligibility to receive compensation, and determining the appropriate amount of funds to be awarded. The City shall assume responsibility for all administrative costs of arbitration.
- 13.2 The arbitration panel shall have unrestricted access to NFPD files, records and personnel and shall conduct evidentiary arbitration hearings, including accepting and reviewing documents from complainants and the City, to determine whether complainants are entitled to compensation, and to make rulings as to the amount of compensation to which each complainant may be entitled. The Attorney General reserves the right to provide information to the arbitration panel as requested or as the Attorney General deems necessary. The arbitration panel shall be the judge of the relevance and materiality of all evidence offered, and strict conformity to legal rules of evidence shall not be required.

The arbitration panel may question any witness or party and independently raise any issue that the arbitration panel deems relevant to making an award that is consistent with applicable law. All hearings shall be conducted within the County of Niagara. The City and the complainant shall be bound by the determinations of the arbitration panel. The appropriation of funds for any damages awarded by the arbitration panel to a complainant shall be subject to the approval of the City Council of Niagara Falls. In the event the City Council does not approve appropriation of funds for an arbitration panel award to a complainant, the complainant may proceed with a civil action against the City, and the City agrees to waive all statutes of limitations and other procedural defenses to any such action.

- 13.3. Within twenty (20) days of the Effective Date, the OAG shall notify eligible complainants in writing of the availability of, and rules governing, the arbitration process. In the event a complainant wishes to participate in the arbitration process, such complainant must notify the OAG in writing of his or her intent to participate within three (3) months of the date of the notification. The OAG will promptly notify the City of all responses it receives.

PART FOURTEEN: SCOPE OF THE ORDER, JURISDICTION, AND ENFORCEMENT PROVISIONS

- 14.1 The Court shall retain jurisdiction over the parties and this matter for the term of three years after the Effective Date.
- 14.2 The Court shall retain all equitable powers necessary to enforce the terms of this Order and remedy any violations thereof, including but not limited to, the power to hold Defendants in contempt and to award damages, restitution, or monetary penalties, as well

as the power to extend the duration of the Order upon a finding of noncompliance or if otherwise necessary.

- 14.3 This Order shall become effective upon its execution by all parties and its entry by the Court.
- 14.4 Notwithstanding any provision of this Order to the contrary, the OAG may, in its sole discretion, grant written extensions of time for Defendant to comply with any provision of this Order.
- 14.5 The signatories to this Order warrant and represent that they are duly authorized to execute this Order and that they have the authority to take all appropriate action required or permitted to be taken pursuant to this Order to effectuate its terms.
- 14.6 The parties may seek to enforce this Order by motion before the Court to the full extent of the law. In the event of a dispute among the parties regarding any issue arising hereunder, the parties will attempt in good faith to resolve the dispute before seeking judicial intervention.
- 14.7 Any failure by the OAG to enforce this entire Order or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of the OAG's right to enforce other deadlines and provisions of this Order.
- 14.8. If any provision, term, or clause of this Order is declared illegal, unenforceable, or ineffective in a legal forum, such provision, term, or clause shall be deemed severable, such that all other provisions, terms, and clauses of this Order shall remain valid and binding on the parties.
- 14.9 This Order constitutes the entire agreement between Defendant and the Attorney General on the matters raised herein, and no other statement, promise or agreement,

either written or oral, made by either party or agents of either party that is not contained in this Order shall be enforceable.

14.10 Nothing in this Order is intended to confer any right, remedy, obligation, or liability upon any person or entity other than the parties hereto.

14.11 Nothing in this Order is intended to, nor shall, limit the Attorney General's investigatory powers otherwise provided by law or this Order.

14.12 This Order may be executed in multiple counterparts, each of which shall be deemed a duplicate original.

14.13 This Order is final and binding on the parties, including principals, agents, representatives, successors in interest, assigns, and legal representatives thereof. No assignment by any party hereto shall operate to relieve such party of its obligations herewith.

14.14. The parties hereby waive and shall not have any right to appeal any of the terms of this Order or in any way challenge the validity of any of the terms of this Order in any forum.

14.15. Defendant agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in this Order or creating the impression that this Order is without factual basis. Nothing in this paragraph affects Defendant's (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Attorney General is not a party.

14.16 Any payments and all correspondence related to this Order shall reference COD-AOD10-117.

14.17 All communications and notices regarding this Order shall be sent by first-class mail and, if 25 pages or fewer in length, by facsimile, to:

Office of the Attorney General:

Kayla Gassmann
Assistant Attorney General
Civil Rights Bureau
NYS Office of the Attorney General
120 Broadway, 23rd floor
New York, New York 10271
Tel. (212) 416-6401
Fax (212) 416-8074

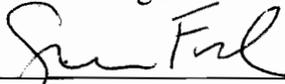
City of Niagara Falls

Craig H. Johnson, Esq.
Corporation Counsel
Law Department
City Hall
745 Main Street
Niagara Falls, New York 14302
Tel. (716) 286-4422
Fax (716) 286-4424

IN WITNESS THEREOF, the parties hereto, intending to be legally bound hereby, have executed this Stipulated Order on Consent on the dates written below:

ANDREW M. CUOMO
Attorney General of the State of New York

By: 
ALPHONSO B. DAVID
Special Deputy Attorney General
for Civil Rights

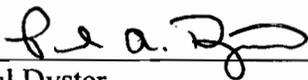
By: 
SPENCER FREEDMAN
Chief Counsel for Civil Rights

KAYLA GASSMANN
Assistant Attorney General

Civil Rights Bureau
120 Broadway
New York, New York 10271
Phone: (212) 416-6280
Fax: (212) 416-8074

Dated: Nov. 30, 2010

THE CITY OF NIAGARA FALLS

By: 
Paul Dyster
Mayor of Niagara Falls

Dated: Nov. 30, 2010

SO ORDERED:

NEW YORK SUPREME COURT JUSTICE

Dated: