

At an IAS Part ____ of the Supreme Court of the State of New York, held in and for the County of New York at the courthouse located at 60 Centre Street on the ____ day of _____, 2008.

PRESENT: HON. JACQUELINE W. SILBERMANN

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Index No. 402295/08 ^{EB} ^{WB}

EBONY BOSTON, M.T. and PAMELA NELSON, on behalf of themselves and dependent minors in their care and all others similarly situated,

FINAL JUDGMENT WITH RESPECT TO THE STATE DEFENDANT

Plaintiffs

-against-

CITY OF NEW YORK, et al.,

Defendants.

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IT IS HEREBY STIPULATED as follows:

1. This judgment resolves all issues in this litigation involving David A. Hansell, as Commissioner of New York State Office of Temporary and Disability Assistance (“OTDA”)¹, and there are no remaining claims or motions pending in this litigation involving OTDA. No further motions or proceedings shall be brought in this litigation as to OTDA. The Hon. Jacqueline W.

¹ When litigation was commenced in 1983, the New York State Department of Social Services (the “NYSDSS”) was the State agency which supervised the local social services districts’ administration of the public assistance programs. See Social Services Law §§ 2(1), 20, & 34. Effective April 1, 1997, the NYSDSS was reorganized as the New York State Department of Family Assistance, consisting of two independent offices -- OTDA and the Office of Children and Family Services. N.Y. Laws of 1997, Chapter 436, § 122(a).

Silbermann is entering this judgment in her capacity as the Administrative Judge and has not been assigned this case.

2. By stipulating to the entry of this judgment, OTDA does not admit to wrongdoing or liability in this litigation.

3. In accordance with applicable law, regulations, and directives, families with children seeking temporary housing assistance in New York City can contest determinations of ineligibility for temporary housing assistance at State administrative fair hearings, and OTDA shall schedule priority hearings requested by such families to contest such determinations.

4. The New York City Department of Homeless Services (“DHS”), pursuant to Social Services Law § 20(3)(a) and 18 N.Y.C.R.R. § 300.6, has submitted to OTDA for its review and approval, a proposed administrative procedure (the “Procedure”) pursuant to which DHS shall determine whether a family with children seeking temporary housing assistance has other housing available to them.

5. OTDA will approve the Procedure.

6. For as long as the Procedure remains in effect in accordance with the Final Judgment against the defendant City of New York in this litigation or otherwise, OTDA shall transmit the Procedure to its hearing officers who preside at administrative fair hearings in New York City for eligibility of families with children for temporary housing assistance, and apply the Procedure in such administrative fair hearings but only in deciding whether a family with children has other housing available to them.

7. Any claim that the provisions contained in this judgment have been violated by OTDA must be brought in a new action, where the provisions of this judgment may be enforced by any Justice of the Supreme Court who may exercise all of the authority that is conferred on the

Supreme Court to enforce a judgment, including using any available remedies to achieve OTDA's compliance with a judgment. In order to obtain relief in such an enforcement effort, the moving party must demonstrate OTDA's systemic non-compliance and bears the burden of proving that the alleged non-compliance is sufficiently significant and widespread or recurring as to be systemic. Minimal or isolated failures or omissions by OTDA shall not constitute systemic non-compliance. In any such action, OTDA shall have all rights that any governmental entity may have under the New York Civil Practice Law and Rules (the "CPLR") including without limitation any applicable provisions of CPLR 5519 and 6313(a), and the parties shall have all rights to discovery that they may have under all applicable provisions of the CPLR. Before commencing any subsequent action alleging that the provisions of this judgment have been violated by OTDA and before seeking temporary relief in any such subsequent action, the party seeking relief shall provide OTDA with prior notice in accordance with applicable law. In any subsequent action, the moving party will seek an enforcement order first before seeking other coercive remedies. An individual family with children seeking temporary housing assistance in New York City who wants to bring a judicial proceeding to challenge the family's individual State administrative fair hearing shall proceed in an individual case.

8. This judgment is subject to the approval of this Court pursuant to Rule 908 of the CPLR. Before this Court can approve this judgment, it will direct that notice be provided, pursuant to Rule 908, to all class members and proposed class members and others similarly situated who would be bound by it. Before this judgment may be approved, there shall be notice of its terms to all class members and proposed class members and others similarly situated; a comment period during which any person who wishes to present comments or objections may do

so; and a hearing to consider its fairness and adequacy, at which any class member, proposed class member, or similarly situated person who wishes to make an oral statement regarding its fairness and adequacy may do so. The terms and manner of the notice, receipt of comments and objections, and the fairness hearing shall be set forth in a separate order by this Court. This judgment, and all of its provisions other than this paragraph 8, will not become effective until this judgment, and each of the judgments in Boston v. City of New York, et al., Index No. ⁴⁰²²⁹⁵_____/08, McCain v. Bloomberg, et al., Index No. 41023/83, Lamboy v. Doar, et al., Index No. 41108/85, Slade v. Bloomberg, et al., Index No. 45177/86, and Cosentino v. Carrión, et al., Index. No. 43236/85 (collectively, the “other cases”) have been approved and entered by the Court. In the event this judgment, or any of the judgments in the other cases, is not approved by the Court, this judgment will be of no further force or effect.

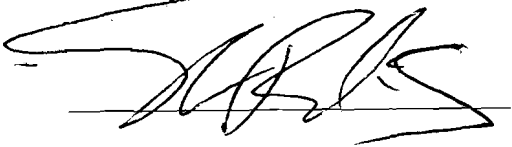
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9. The parties hereto shall bear their own attorney's fees and costs in this action.

Dated: New York, New York
September 17, 2008

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ENTER.

Hon. Jacqueline Silbermann, J.S.C.

Judgment entered this ____ day of _____, 2008