COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION & MARCIA L. SIMS, Complainant,	)	
v.	)	
STARMET CORPORATION, f/d/b/a NUCLEAR METALS, INC., and also d/b/a APPLIED TECHNOLOGY MANAGEMENT, LLC. Respondents.	)	DOCKET N0. 04-BEM-00312

Appearances: David R. Feakes, Esq. for Complainant
James B. Conroy, Esq. for Respondent

I. PROCEDURAL HISTORY

On January 8, 2004, the Complainant, Marcia Sims, filed a complaint of age and gender discrimination against Respondent, Starmet Corporation, formerly doing business as Nuclear Metals, Inc., and also doing business as Applied Technology Management, LLC. The Investigating Commissioner found probable cause to credit the allegations of age and gender discrimination. Efforts at conciliation were unsuccessful and the matter was certified to a public hearing. A public hearing was held on November 15 and 16, 2006, before the undersigned Hearing Officer. The parties submitted post-hearing briefs on January 16, 2007. Having thoroughly reviewed the record in this matter and the post-hearing submissions of the parties, I make the following Findings of Fact, Conclusions of Law and Order.

II. FINDINGS OF FACT

1. Complainant, Marcia Sims, was born on July 4, 1942. She was 60 years old in March of 2003, when Respondent, Applied Technology Management, terminated her employment. (Ex. 1)

2. The Respondent, Starmet Corporation, formerly known as Nuclear Metals, Inc., also doing business as Applied Technology Management, LLC is an employer within the meaning of G.L. c. 151B and operates a manufacturing facility in Concord, Massachusetts.

3. Complainant was hired by Respondent, Starmet in 1987 as a custodian at its plant in Concord, Massachusetts. She remained employed continuously until March 28, 2003. Complainant was hired at the rate of $7.00 per hour plus a $0.50 per hour bonus for working on the "B" (evening) shift. (Ex. 1). At the time of her termination, Complainant was paid $14.65 per hour for a 40 hour work week. Her weekly wage at the time of her termination was $586.00 (Ex. 32). Complainant also received benefits, including health and dental insurance, life insurance, disability insurance, four weeks of vacation time, and personal time.

4. At the time Complainant began her employment with the Respondent, the company was known as Nuclear Metals, Inc. ("NMI"). NMI later changed its name to Starmet, Corporation. After Starmet filed for bankruptcy protection, Applied Technology Management, LLC ("ATM") was formed. All Starmet employees, including Sims, were

then employed by ATM and leased back to Starmet. At the time of her termination, Sims was employed by ATM while doing work for Starmet at its facility.

5. At that time of Complainant's hire, Starmet's principal business was the manufacture of depleted uranium anti-tank ammunition for the U. S. Army, but it also made beryllium aluminum parts for the computer chip and aerospace industries and metal powders used for coating medical implants.

6. When Complainant began working at Starmet, the plant employed hundreds of employees. According to Respondent, in the year 2000, the company's business declined sharply because of a decrease in demand for the ammunition it produced. As a result, government orders ceased, putting an end to Starmet's depleted uranium business.

7. After Starmet went bankrupt in April 2002, Respondent continued to manufacture metal powders and beryllium aluminum parts under the bankruptcy trustee's authority, with its workforce provided by ATM. When Complainant's employment was terminated in March of 2003, ATM was her employer, although she had worked continuously at Starmet's Plant since 1987.

8. Complainant's job duties as the custodian for Respondent's facility included cleaning locker rooms and rest rooms, cleaning the cafeteria, sweeping and mopping hallways and stairwells, emptying trash from offices, and vacuuming. She was also responsible for stripping, waxing, and buffing hallway floors, and operating a rug shampooer and power washer. She occasionally raked leaves and shoveled snow. In addition to her custodial

duties, Complainant was responsible for laundering, folding and stocking the uniforms of all of the Respondent's manufacturing employees. (Ex. 2).

9. From 1987 until 1998, Respondent conducted annual written performance evaluations of company employees, including Complainant. Complainant received positive written performance evaluations stating that she performed her job at or above an acceptable level (Ex. 31). She had no written record of discipline or reprimands with the Respondent.

10. On March 28, 2003, Respondent terminated Complainant's employment. The reason that the Respondent gave for her termination was that she was part of a reduction in force. (Ex. 10 & 11). At the time of her termination, Complainant was the only custodian Respondent employed. During the nearly 16 years that she was employed by Respondent, Complainant was the only female custodian employed by Respondent.

11. Gerald Hoolahan testified that he made the decision to terminate Complainant's employment. Hoolahan was hired by Starmet's lender, as a consultant in 1998 or early 1999 and at that time he became a member of Starmet's board of directors. He resigned from the board in January 2001 over its handling of environmental problems stemming from its past manufacture of depleted uranium products. Hoolahan purchased Starmet's assets following its bankruptcy.

12. Janet Hannon was Respondent's Human Resource Administrator. Hannon testified that until the day of Complainant's termination, she was not aware that Complainant's custodian position was to be eliminated, or that Respondent was implementing a

reduction in force. Hoolahan informed her of this for the first time on the day Complainant was to be terminated and instructed her to fire Complainant.

13. Hannon reported to Pamela Faustine. Faustine started with the Company in 1998 as its Manager of Financial Analysis, was promoted to Controller in about 2001, and is in charge of financial controls, accounts receivable and payable, human resources, shipping, receiving, and security. Faustine was friendly with Complainant and they sometimes went out to eat together, with other women from the plant. Faustine testified that women have been employed at Respondent in many important jobs, including the Manager of the Research and Development group, engineers, quality controllers, information services personnel, and finance professionals, as well as production workers.

14. At some point after the Plant's cafeteria closed down, Complainant set up a coffee stand for the maintenance department, and later expanded it and took it to a bigger room (the "Coffee Room"), where she set up four pots of coffee and two dozen donuts daily. From time to time, Complainant also put out cold cuts and the like for everyone who used the Coffee Room. In September 2001, a television set was put in the Coffee Room and was kept on continuously thereafter. Complainant testified that the TV belonged to a security guard who placed it in the Coffee Room during the events of 9/11 and it just remained there.

15. Hoolahan testified that he came to understand that Complainant was spending large amounts of time in the coffee room and neglecting her duties as custodian. Complainant denied that she spent an hour or two of her eight working hours in the Coffee Room

every day. She claimed she set it up before she started work, returned for her 15 minute morning break, and took her lunch break there. She acknowledged that she enjoyed chatting with the Coffee Room's patrons but stated that it didn't interfere with her routine. It is clear from the testimony of others that Complainant spent more time than she claimed relaxing in the Coffee Room.

16. Hoolahan testified that he knew who Complainant was, but they had no direct interactions. He knew she was the only custodian left at the plant and that it was not feasible for her to clean the whole building. For this reason, he asked Paul Roberts, the Plant's Maintenance Foreman, to make up the list of the areas she was assigned to clean -- primarily the restrooms and halls. (Ex. 2) Hoolahan concluded that those areas were not being cleaned as they should have been. While Complainant did not receive any performance reviews, or warnings or discipline for poor performance, Hoolahan claimed that, based on his own observations of the areas she was supposed to be cleaning and reports he received from others, she was not adequately performing her job.

17. Hoolihan testified that he was concerned that Complainant was being paid to work overtime while she was observed spending time in the Coffee Room. He believed she was being paid overtime for cleaning work that she purportedly could not get to during the regular work day.

18. White testified that the hallways were so dirty that one day he organized a group of his colleagues to wear jeans and to clean and wax the floors themselves. When he asked Complainant to direct him to the cleaning supplies, she asked him if he was trying to take away her overtime and told him she would take care of it. As a result of this

conversation, he disbanded his volunteer cleanup crew and Complainant cleaned the hallways, on overtime, a weekend or two later. Complainant confirmed that this incident occurred but stated she had only been "kidding around" with White. White stated "[s]he appeared quite serious to me, and obviously I left and went back to the offices."

19. Hoolahan testified that he learned about this incident from Pamela Elia and was extremely upset to hear that Complainant was socializing and watching television during her 40 hour work week while collecting overtime for work he believed she could have been doing during regular work hours. As a result, Hoolahan directed Roberts to fire Complainant.

20. Roberts testified that he had been a friend of Complainant's for 15 years. Rather than dismissing Complainant, Roberts went to Faustine, who was also friendly with Complainant, and informed her that he had been told to fire Complainant. He also told her that Hoolahan was upset about the time Complainant was spending in the Coffee Room and upset about the condition of the floors. Faustine discussed with Roberts the possibility of putting an end to the Coffee Room and giving Complainant the opportunity to get more work done during the work day, rather than on overtime, in order to save her job.

21. Faustine then intervened with Hoolahan on Complainant's behalf, and Hoolahan accepted her recommendation not to fire Complainant but to close down the Coffee Room instead. Roberts was directed to shut down the Coffee Room the next day, instead of firing Complainant. The reason Roberts gave her for closing the Coffee Room was that "the TV had gotten to be too much and the coffee and donuts had gotten to be too

much." Complainant testified that the Coffee Room was disbanded while she was on vacation in July, presumably of 2002, some nine to ten months before she was terminated. She also testified that sometime in 2002 all overtime ceased.

22. In approximately January of 2003, the Respondent received notice that K&S, its major customer, would be putting in no new orders for months to come. Hoolahan testified that K&S had been generating about $300,000 a month in revenues, and that he and Mattheson agreed that without that income ATM would be unable to cover its payroll. Hoolahan stated that despite already having made deep payroll cuts which resulted in many employees covering multiple tasks, more retrenchment was required. According to him, the biggest cost of running the plant, was, by far, its payroll and no other costs could be cut. Therefore, K&S's suspension of its orders made it necessary to cut payroll still further in order to stay in business.

23. Hoolahan learned from Mattheson how much payroll needed to be cut in order to make ends meet, and they discussed how to reduce the already depleted workforce most efficiently and most equitably. Hoolahan was ultimately responsible for determining who would be kept and who would be laid off. He testified that he approached the problem as one of tasks that could be eliminated, consolidated, or reassigned as opposed to people who should be let go. Rather than cutting an arbitrary number of jobs, he sought and received ideas from people throughout ATM on how to consolidate, reorganize, and redistribute its tasks and then implement them on a phased-in basis.

24. According to Hoolahan, since the business could not survive without generating revenue, he rated as "A" jobs the ones that were essential to producing revenue, such as sales and foundry work. "B" jobs supported the revenue-producing jobs and included such tasks as sales support and collections of accounts receivable. "C" jobs, such as shipping, "supported the support people." "D" jobs supported the Plant's operations and maintenance but did not contribute directly to revenue production and, with a few indispensable exceptions such as the only person who knew how to run the heating system, were the most vulnerable to being cut.

25. In addition to Complainant, six other employees were terminated in the 2003 reduction in force. The six employees other than Complainant who were terminated in the 2003 RIF were 29, 41, 42, 47, and 52 years old. (Ex. 19, no.7, p. 2).

26. According to Hannon, the three employees who were older than Complainant (a 61 year-old man, a 63 year-old man, and a 63 year-old woman) were not laid off, and all three were still employed by ATM at the time of the hearing. One is a security guard, another works in hazardous materials compliance, and the third is in accounts receivable.

27. Following notification of her termination on March 28, 2003, Roberts met with Complainant at the Maynard Elks Club and told Complainant that she was not part of a reduction in force, but rather that she had been fired.

28. Before Complainant was terminated, the Respondent decided to hire a new employee to perform custodial duties. Hoolahan told Hannon of that decision prior to March 28, 2003, and instructed her to place a job advertisement for a Custodian/Driver including

what information to put in the ad. Hannon placed the advertisement with local newspapers before Complainant's termination. At the time Hannon submitted the ad, Hannon believed that the Respondent was advertising for an additional Custodian and not planning to terminate Complainant. Once Hoolahan told Hannon that Complainant's custodian position was eliminated, Hannon expressed her concern to another employee that the Respondent was eliminating and hiring for a position at the same time.

29. Following Complainant's termination on March 28, 2003, Hannon told Roberts that she believed that the Respondent treated Complainant unfairly in terminating her employment. Shortly thereafter, Hannon advised Complainant to seek the advice of an attorney.

30. Within two weeks of Complainant's termination, the Respondents hired a 46 year old male, Michael Taylor, to the position of Custodian/Driver. (Ex. 9; Ex.18 at p. 12-13). Taylor's duties included cleaning offices, hallways, and locker rooms, and operating floor buffing and power washing equipment. (Ex. 9). Although Complainant was qualified to perform those duties, the Respondent did not contact her to fill the custodial position filled by Taylor. The Respondent terminated Taylor in August 2003 for poor performance.

31. During the summer of 2003, Hoolahan directed Hannon to hire two additional males to perform custodial duties. In June 2003, the Respondent hired 32 year old Michael Tinsley to the position of Custodian. (Ex. 12; Ex.18 at p.13). Tinsley's duties included

cleaning offices, hallways, and locker rooms, laundering uniforms and towels, and logging employees and visitors in and out of the Respondent's building. (Ex. 12). Although Complainant was qualified to perform those duties, the Respondent did not contact her to fill the custodial position filled by Tinsley. Tinsley resigned his position in October 2003. In July 2003, the Respondent hired 18 year old Robert Campagna as a Custodian for the summer. (Ex. 12; Ex. 18 p.13). Campagna's employment terminated at the end of August 2003.

32. Hannon testified that in December 2003, Hoolahan directed her to hire a new Custodian. In January 2004, the Respondent hired a 39 year old male, David Broome, as a Custodian. (Ex. 14, 16, 18 at p.14). Broome's duties were cleaning offices, work areas, hallways, cafeteria, restrooms and locker rooms, and operating floor buffing and power washing equipment. (Ex. 14). The Respondent paid Broome $15.00 per hour (more than Complainant was ever paid) to perform those duties. (Ex. 14, Ex. 18 at p.14). The Respondent also provided Broome with benefits, including health, dental and life insurance, disability insurance and vacation and personal time. (Ex. 18 at p.14). Although Complainant was qualified to perform the duties performed by Broome, the Respondent did not contact her to fill the custodial position filled by Broome. According to Hannon, Broome's employment with the Respondent terminated when he failed to appear for work in August 2004.

33. In May 2005, the Respondent hired a male, Robert Regione, as a Custodian. (Ex. 22). Regione's duties were cleaning the restrooms, locker rooms, and cafeteria, removing

trash, washing and waxing floors, and vacuuming. (Ex. 25 at p.2-3). Although Complainant was qualified to perform the duties performed by Regione, the Respondent did not contact her to fill the custodial position filled by Regione.

34. In November 2005, the Respondent hired a 39 year old male, Marc Davey, as a Custodian. (Ex. 23, 24). Davey's duties were cleaning the restrooms, locker rooms, and cafeteria, removing trash, and washing, waxing and stripping floors. (Ex. 25 at p.3). Although Complainant was qualified to perform the duties performed by Davey, the Respondent did not contact her to fill the custodial position filled by Davey.

35. After her termination by the Respondent, Complainant sought and obtained other employment. From June to September 2003, she worked as a fill-in housekeeper for Concord Academy in Concord, MA earning $13.00 per hour with no benefits. From February 2004 to March 2005, Complainant worked as a housekeeper for Emerson Hospital in Concord, MA earning $11.25 per hour. From March 2006 to the date of hearing, Complainant worked for the Jack O'Lantern in Ayer, MA as a liquor store clerk earning $8.00 per hour with no benefits. Complainant currently has no health or dental insurance because she cannot afford the premiums.

36. At the time of her termination by the Respondent, Complainant earned $30,472.00 per year as the Respondent's Custodian. In 2003, Complainant's total earned wages were $18,428.45. In 2004, her total earned wages were $18,898.45. In 2005, her total earned

wages were $7,028.12. In 2006, through the dates of hearing, Complainant's total earned wages were $6,878.88. (Ex. 32).

37. Complainant's termination affected her emotionally and physically. She testified credibly that she gets jittery, has trouble sleeping, and her mind wanders. She feels stressed and suffers from headaches. Complainant did not suffer from sleeplessness or headaches before her termination by the Respondent. Complainant testified that in addition to headaches, she suffers from an ulcer and high blood pressure. Although Complainant has been prescribed medications for those physical conditions, she cannot afford the medications. Complainant testified that she supports herself and worries about her finances and making ends meet. She is on a strict budget and no longer has health or dental insurance.

38. On March 28, 2003, Complainant had no physical limitations on her ability to perform her job, nor did she have any health conditions that restricted her ability to perform her job for the Respondent. The Respondent has no mandatory retirement age, and Complainant intended to work to age 70 in order to support herself.

II. CONCLUSIONS OF LAW

General Laws c.151B s. 4(1) prohibits discrimination in employment on account of gender, and includes termination from employment. G. L. c. 151B s. 4(1B) makes it an unlawful practice to discharge a person from employment on account of age and protects employees age 40 and over .

To make out a prima facie case of gender discrimination, the Complainant must establish that she was a member of a protected class; that she was performing her job in an acceptable way; that she was fired; and that the Respondents sought to fill the Complainant's position by hiring someone else not of her protected class with qualifications similar to plaintiffs. See *Blare v. Husky Injection Molding Systems*, 419 Mass. 437 (1995). In an age discrimination case, an inference of discrimination may be drawn where a plaintiff is in the protected class, is performing adequately and is replaced by an employee who is substantially younger. *Knight v. Avon Products, Inc.*, 438 Mass. 413, 425 (2003).

Complainant was employed by Respondent as a Custodian for over 15 years from October1987 to March 2003. Her primary duties in that position were cleaning offices, restrooms, locker rooms, and hallways, laundering company uniforms and towels, and picking up and removing trash. Respondents went through a number of institutional changes during the course of Complainant's employment and underwent considerable downsizing. In March of 2003, the Respondents terminated Complainant's employment, ostensibly as part of a reduction in force caused by continuing financial difficulties. At the time of her termination, Complainant was 60 years old.

Complainant had received positive written evaluations up until Respondent ceased doing them, and up to the time of her termination had no written record of discipline or reprimands. She was never counseled or disciplined for poor or inadequate performance, and thus, presumably, met Respondent's minimum performance expectations for the job. Her salary increased steadily from $7.00 per hour to $14.65 per hour over the years. Complainant has therefore met her burden of establishing that she is

a member of a protected class, that she was performing her job in an acceptable way, and that she was terminated.

While Respondent proffered testimony that Complainant was not adequately performing her duties in the time leading up to the termination, Respondent admitted that no one person could ever have been expected to complete all of the custodial duties Complainant was charged with. This is bolstered by the fact that Respondent subsequently sought to hire more than one male custodian. Moreover, Complainant received no warnings, disciplinary actions or poor evaluations regarding unsatisfactory performance. Hoolahan testified that he and others were dissatisfied with Complainant's performance and thought she was abusing overtime, rather than working efficiently during her regular work day. However, this was not articulated as the reason why Complainant was selected for termination in 2003. While Hoolahan testified at length regarding his frustration with Complainant and the time she spent operating the coffee room, by the time of her supposed lay-off in March of 2003, this issue had been addressed and the coffee room had been shut down for some eight months or more. Finally Complainant asserts that her performance was never raised as the reason for her termination until the MCAD proceedings.

Within two weeks of Complainant's termination, Respondent hired a male custodian, who was substantially younger than she, and thereafter proceeded to hire a succession of young males to fill the position of Custodian. These men ranged in age from eighteen to their mid-forties and were substantially younger than Complainant. Thus Complainant has satisfied the elements for a prima facie case of both age and gender discrimination.

Once Complainant has successfully raised an inference of discrimination by satisfying the elements of a prima facie case, Respondent may rebut the presumption of discrimination created by the prima facie case by articulating a legitimate non-discriminatory reason for its actions which is supported by some credible evidence that it was the real reason. *Blare, supra. at 441-442.*

In this case, Respondent stated that Complainant's termination was part of a reduction in force that was necessitated by grave financial difficulties. Respondent produced evidence that other employees who were in positions that Hoolahan considered non-production, and therefore non-essential, were also laid off in 2003. Thus, Respondent's articulated reason for the termination was that financial considerations required a reduction in force and Complainant's position was deemed expendable. On its face, this appears to be a legitimate non-discriminatory reason.

Respondent must "not only give a lawful reason or reasons for its employment decision but also must produce credible evidence to show that the reason or reasons advanced were the real reasons." *Wheelock College v. MCAD,* 371 Mass. 130 (1976). While Respondent has produced credible evidence that it was experiencing financial difficulties and that there was a need to lay-off certain non-essential personnel, the assertion that Complainant's position was being eliminated is not credible and I conclude this was a pretext for discrimination for the reasons stated below.

Once Respondent has articulated a legitimate non-discriminatory reason for its action, Complainant must prove that Respondent's actions were a pretext for unlawful discrimination. *Abramian v. Harvard College,* 432 Mass. 107 (2000). In order to do so Complainant must prove that the actions were motivated by discriminatory intent, motive

or state of mind. *Lipchitz v. Raytheon Co.*, 434 Mass. 493, 504 (2001). One manner of doing so is to demonstrate that Respondent's reasons were false. *Id.* at 507. Even if only one of Respondent's reasons is false, a fact-finder may draw the inference that the action was motivated by unlawful discrimination. *Abramian, supra.* at 118. The three-stage order of proof does not negate the complainant's burden to prove all the essential elements of her claim, but it does permit the fact-finder "to infer discriminatory animus and causation from proof that an employer has advanced a false reason for the adverse employment action, in the absence of direct evidence that the actual motivation was discrimination." *Knight v. Avon Products, Inc.* 438 Mass. 413, 422) (citing *Lipchitz, supra.* at 502).

The undisputed facts are that Complainant's position was not eliminated and that she was not technically part of a reduction in force, but was instead terminated. A decision to replace her by hiring new employees had already been made prior to her termination. Hannon testified that she was instructed by Hoolahan prior to Complainant's termination to advertise the availability of a custodian position. Shortly thereafter Respondent hired a male custodian who was significantly younger than Complainant and continued over the next few years to hire a succession of younger male custodians, many of whom did not work out and were subsequently terminated. It appears that none of the subsequently hired custodians met the performance expectations that Respondent seemed to set for Complainant. At one point two custodians were hired and one custodian was paid more than Complainant, thereby totally negating the asserted financial reasons for Complainant's termination. These facts significantly undermine Respondent's assertions that the Custodian position was eliminated as being non-essential

to production and that Complainant was let go for financial reasons. In fact these reasons were false. Finally, Respondent's assertions that male custodians were needed to perform tasks that Complainant would have been unable to do, were undermined by testimony that the last two custodians hired did not perform these other tasks, and did only custodial work. Complainant was never recalled or offered reinstatement to her custodial position at Respondent. All the subsequently hired custodians were significantly younger than she and were male. Given all of the above, I find that Complainant has demonstrated that her so-called lay-off for financial reasons was a pre-text for unlawful sex and age discrimination. Thus, Complainant has persuaded me that she was the victim of unlawful discrimination based on both her sex and her age in violation of G.L. c. 151B.

III. REMEDY

Pursuant to § 5 of c. 151B, the Commission is authorized to award remedies to effectuate the purposes of the statute. This includes awarding damages for lost wages and benefits and for emotional distress proximately caused by the discriminatory acts of a Respondent. *See Stonehill College v. MCAD*, 441 Mass 549 (2004); *College-Town div. of Interco. v. MCAD*, 400 Mass. 156, 169 (1987).

With respect to lost wages, Complainant has demonstrated that she attempted to mitigate her damages by seeking other employment and she had some interim earnings in the years following her termination, but earned less than she was earning at Respondent and received no benefits. At the time of her termination by the Respondent, Complainant earned $30,472.00 per year as the Custodian. In 2003, Complainant's total earned wages were $18,428.45. In 2004, her total earned wages were $18,898.45. In 2005, her total earned wages were $7,028.12. In 2006, through the dates of hearing, Complainant's total

earned wages were $6,878.88. Thus for the years 2003 through 2006 up to the time of the hearing, Complainant's lost wages were $70,654.10. I conclude that she is entitled to be reimbursed for lost wages in this amount. There was no evidence in the record regarding the value of Complainant's health benefits, so I am unable to make an award for lost benefits.

With respect to damages for emotional distress, an award must be fair and reasonable and proportionate to the harm. An award must rest on substantial evidence that it is causally connected to the unlawful act of discrimination and take into consideration the nature and character of the alleged harm, the severity of the harm, the length of time Complainant has or expects to suffer, and whether Complainant has attempted to mitigate the harm. *Stonehill, supra.* at 576. Proof of physical injury or psychiatric consultation is not necessary to sustain an award for emotional distress. *Id.*

Complainant testified credibly about the physical and emotional impact of being terminated from her job after 16 years with Respondent. She suffered from a great deal of stress that manifested in her feeling jittery, suffering sleepless nights and worrying about her finances. She also suffered from headaches and said her mind wandered a lot. It was clear from Complainant's testimony that the stress of being terminated at age 60 after 15 years with the company had a significant emotional impact on Complainant. She supported herself and faced limited job prospects and the slim possibility of acquiring a similar position with similar pay or benefits at her age. I conclude that the stress of having to face the prospect of joblessness at age 60, having only a high school education and no other source of income, had a significant emotional impact on Complainant. While there is no medical evidence that Complainant's high blood

pressure and ulcer were causally related to losing her job, she indicated that she suffers from these conditions now and described her other symptoms in the present tense. There was no additional evidence regarding the duration of Complainant's symptoms. There was no evidence that Complainant sought medical or other professional help for her emotional distress, however, given the fact that she no longer had medical benefits, and testified she cannot afford the medication for her high blood pressure and ulcer, this is understandable. Given all of the above, I conclude that Complainant is entitled to an award of damages for emotional distress in the amount of $25,000.

V. ORDER

Respondent is hereby Ordered to:

(1) Cease and desist from engaging in discrimination based on sex and age.

(2) Pay to Complainant within 60 days of receipt of this decision, the sum of $70, 654.10 in damages for lost wages with interest thereon at the statutory rate of 12% per annum, from the date the complaint was filed until such time as payment is made, or until this order is reduced to a court judgment and post-judgment interest begins to accrue.

(3) Pay to Complainant within 60 days of receipt of this decision, the sum of $25,000 in damages for emotional distress, with interest thereon at the statutory rate of 12% per annum from the date the complaint was filed until such time as payment is made, or until this order is reduced to a court judgment and post-judgment interest begins to accrue.

This decision represents the final order of the Hearing Officer. Any party aggrieved by this Order may appeal this decision to the Full Commission. To do so, a party must file a Notice of Appeal of this decision to the Clerk of the Commission within ten (10) days after the receipt of this Order and a Petition for Review within thirty (30) days of receipt of this Order.

So Ordered this 3rd day of December, 2007

Eugenia M. Guastaferri
Hearing Officer