

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**434**

**TP 24-00181**

PRESENT: LINDLEY, J.P., CURRAN, OGDEN, GREENWOOD, AND KEANE, JJ.

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IN THE MATTER OF STATE DIVISION OF HUMAN RIGHTS,  
PETITIONER,

V

MEMORANDUM AND ORDER

ROBERT M. WEICHERT, SUSAN WEICHERT, RESPONDENTS,  
ET AL., RESPONDENT.

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CAROLINE J. DOWNEY, GENERAL COUNSEL, BRONX (MICHAEL K. SWIRSKY OF  
COUNSEL), FOR PETITIONER.

ROBERT M. WEICHERT, RESPONDENT PRO SE.

SUSAN WEICHERT, RESPONDENT PRO SE.

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Proceeding pursuant to Executive Law § 298 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Onondaga County [Danielle M. Fogel, J.], entered January 23, 2024) seeking judicial review and enforcement of the final order after hearing issued by the New York State Division of Human Rights on October 7, 2015 on the complaint of CNY Fair Housing, Inc.

It is hereby ORDERED that the determination is unanimously confirmed without costs, the petition is granted, and respondents Robert M. Weichert and Susan Weichert are directed to pay respondent CNY Fair Housing, Inc. the sum of \$8,000 for punitive damages, with interest at a rate of 9% per annum, commencing October 7, 2015; and to pay the Comptroller of the State of New York the sum of \$8,000 for a civil fine and penalty, with interest at the rate of 9% per annum, commencing October 7, 2015.

Memorandum: Petitioner, State Division of Human Rights (SDHR), commenced this proceeding pursuant to Executive Law § 298 seeking to enforce the final order of its Commissioner, which in turn adopted the "recommended findings of fact, opinion and decision, and order" of an administrative law judge (ALJ). The ALJ concluded, following a public hearing, that Robert M. Weichert and Susan Weichert (respondents) had engaged in unlawful discriminatory practices with respect to housing. The ALJ awarded respondent CNY Fair Housing, Inc. (Fair Housing) punitive damages of \$8,000 and imposed a civil fine and penalty of \$8,000.

We agree with SDHR that the Commissioner's determination that

respondents discriminated against Fair Housing based on disability is supported by substantial evidence (see Executive Law § 296 [5] [a] [1]; *Matter of Sherwood Terrace Apts. v New York State Div. of Human Rights*, 61 AD3d 1333, 1334 [4th Dept 2009]). We further agree with SDHR that the award of \$8,000 in punitive damages to Fair Housing is both appropriate "as a deterrent against housing discrimination" and "is supported by the evidence" herein (*Matter of Woehrling v New York State Div. of Human Rights*, 56 AD3d 1304, 1305 [4th Dept 2008]; see § 297 [4] [c] [iv]; *Sherwood Terrace Apts.*, 61 AD3d at 1334), and that the \$8,000 civil fine and penalty was properly imposed based on the Commissioner's determination that respondents "committed an unlawful discriminatory act" (§ 297 [4] [c] [vi]; see *Matter of Li v New York State Div. of Human Rights*, 147 AD3d 1321, 1321-1322 [4th Dept 2017]).

We have reviewed respondents' contentions and conclude that they are without merit.