

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

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In the matter of the complaint of:

VERIFIED COMPLAINT

SHAHANA HANIF,

Complaint No.

Complainant,
-against-

VENMO, LLC

Respondent.
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Complainant Shahana Hanif (“Hanif”), by and through her attorney, the Council on American-Islamic Relations, New York Inc. (“CAIR-NY”), brings this action against Respondent Venmo, LLC (“Venmo”) and respectfully alleges:

The ease of paying someone using a payment processor should not depend on whether someone is Muslim, Arab, or South Asian. Yet, this Complaint arises from the fact that many New Yorkers are denied the ability to enjoy and pay their friends and colleagues back for meals, purely on account of their race, religion, or patronage of restaurants of certain ethnicities.

Banking while Muslim is not a crime. Yet, a growing number of financial institutions, including Respondent Venmo, are engaged in discriminatory banking practices that single out and criminalize consumers on the basis on their real or perceived identities or Muslim faith. These discriminatory practices stigmatize individuals because of their religion, race, or ethnicity and cause extreme fear and emotional distress. Without access to the financial industry, Muslim Americans will be unable to participate in the United States economy nor will they be able to complete basic essential transactions such as paying a restaurant tab or rent and utility payments.

PARTIES IN THE COMPLAINT

1. Complainant, Ms. Shahana Hanif, is a community organizer and candidate for New York City Council in Brooklyn's 39th District, residing in Brooklyn, New York. Ms. Hanif is a Muslim Bangladeshi woman, and, if elected to the City Council, would be the City Council's first Muslim woman and South Asian person. The transaction at issue in the incident described below occurred at Al-Aqsa Restaurant located at 2107 Starling Ave, Bronx, New York 10462.

2. Respondent Venmo is a mobile payment service company owned by PayPal Holdings, Inc. Venmo account holders can transfer funds to others through the use of a mobile phone application. Venmo operates throughout the United States. Importantly, using Venmo requires a U.S. bank account or debit card.

3. Upon information and belief, Respondent Venmo is a New York business entity with an address of 95 Morton Street, Floor 5, New York, NY 10014.

4. Respondent Venmo is a provider of public accommodations as defined by the New York City Human Rights Law ("NYCHRL"). *See* 8-102 Definitions ("[T]he term 'place or provider of public accommodation' includes providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available.").

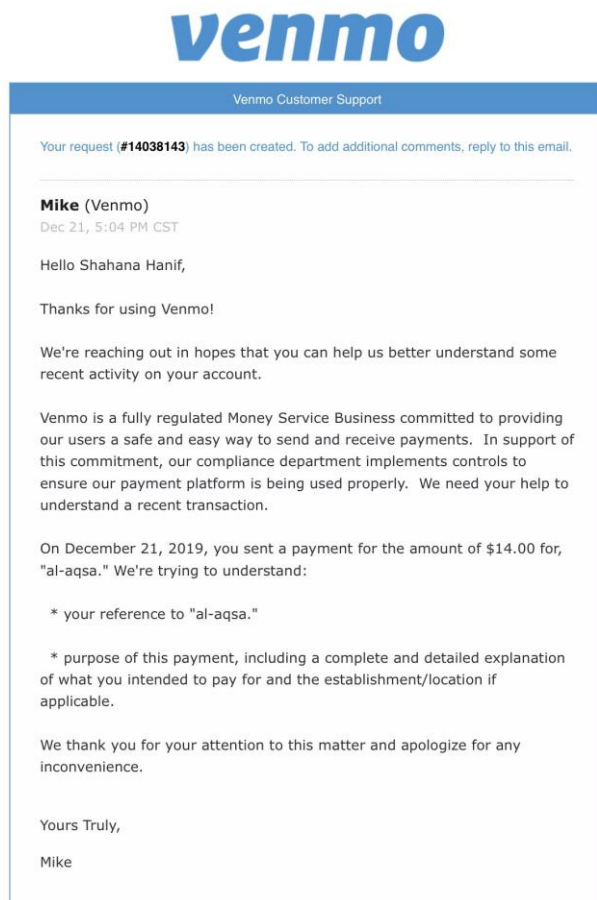
5. This complaint is being filed within one year of the unlawful discriminatory practices alleged herein, pursuant to New York City Admin. Code § 8-109(e).

STATEMENT OF FACTS

6. On December 21, 2019, Ms. Hanif dined with friends at the Al-Aqsa Restaurant located at 2107 Starling Ave, Bronx, New York 10462. As is common practice among friends, one

person covered the check and after lunch, Ms. Hanif sent a payment of \$14.00 through Venmo to pay her friend back for a Bangladeshi meal she ate at Al-Aqsa Restaurant.

7. What should have been a simple \$14.00 reimbursement was far from it. Respondent Venmo flagged and restricted the payment, preventing Ms. Hanif from paying her friend. Several hours later, Ms. Hanif got an email from a Venmo representative asking about her "reference to 'Al-Aqsa,'" and requesting she provide the "purpose of this payment, including a complete and detailed explanation of what [she] intended to pay for and the establishment/location if applicable." See below:



8. The term "Al-Aqsa" is associated with the Al-Aqsa Mosque, one of the holiest sites in Islam, located in Jerusalem. Ms. Hanif alleges that the term "Al-Aqsa" was flagged for being

parallel to the Al-Aqsa Mosque, and therefore that filtering of payments with the term “Al-Aqsa” by Respondent Venmo singles out Muslims.

9. Ms. Hanif was offended, humiliated, and unsure why she needed to justify eating at a restaurant with friends. She provided Respondent with the restaurant’s address. The payment was eventually approved, but she was not given further explanation.

10. Respondent Venmo’s flagging of the payment, how they treated her, and failure to provide any explanation to Ms. Hanif made her feel singled out and unwelcome, purely on account of her identity and the businesses in New York that she chose to patronize with her friends in order to have a Bangladeshi meal.

11. Respondent Venmo indicates that they screen certain payment activities in an effort to address sanctions programs maintained by the U.S. Department of the Treasury. “Venmo, like other U.S. financial institutions, screens payment activity and flags any payments that may violate U.S. economic sanctions administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC).” *Keeping the Venmo Community Secure - The Company’s Approach to OFAC Compliance*, THE OFFICIAL VENMO BLOG, <http://blog.venmo.com/2016/3/12/keeping-the-venmo-community-secure> (last updated Mar. 2020).

12. However, Venmo’s compliance with OFAC does not give it a blanket license to discriminate. The manner of Venmo’s treatment of Ms. Hanif, as well as reported evidence of its blocking of transactions involving Muslims, Arabs, and South Asians generally, reveals that its OFAC policy is overbroad and has a disparate impact against these communities.

13. Ms. Hanif also alleges that words like "Muhammad" and "Quran" were flagged under Respondent Venmo’s algorithm, further exemplifying discriminatory practices and the singling out of Muslims. When Ms. Hanif shared her experience on Twitter, multiple users quickly reported similar experiences on account of identifiers related to Islam or Arabic terms. *See, e.g.*, Youssef Kalad

(@youssefkalad), Twitter (Dec. 23, 2019, 8:30 PM),

<https://twitter.com/youssefkalad/status/1209332716245786626> (reporting flagged payment of ticket to a Syrian play); Hiba (@_7iba), Twitter (Dec. 23, 2019, 10:08 PM),

https://twitter.com/_7iba/status/1209355197308448769 (reporting flagged payment for a gelato flavor called “Syrian lemonade”).

14. Enough other users of Respondent Venmo’s services have experienced similar discriminatory treatment, from filters that are either unevenly applied or implemented on the basis of ethnicity, that *Newsweek* conducted an investigation into the platform. *Newsweek* tested several dozen payments on the service using various terms. Payments with terms like “Persian,” referencing an ethnicity associated with the Muslim-majority country of Iran, were flagged and singled out solely on that basis. See Daniel Moritz-Rabson, *Venmo Flags Payments for 'Persian' Restaurants, Other Terms Related to Iran Due to Sanctions*, NEWSWEEK (Feb 21, 2019), <https://www.newsweek.com/venmo-flags-payments-persia-allows-nazis-1339871>. In contrast, transactions mentioning “Cuba sanctions” and “North Korea food,” involving countries also subject to U.S. sanctions and embargoes under OFAC, are reportedly passed through unflagged. *Id.* Such a double-standard is unacceptable and further reveals an anti-Muslim bias.

15. The advocacy group MPower Change also tested various transactions, finding that transactions involving Muslims, Iranians, or those perceived to be Muslim were flagged while other terms violating Venmo policies were not. “We tested other word variations, to see if they would set off Venmo's internal filters. We were shocked to find that terms including ‘KKK’ and ‘cocaine’ did not result in a single flag—even though they clearly violate PayPal's user agreements (the platform ‘may not be used to promote hate, violence, or illegal activity’).” MPower Change, *Venmo: Fix Your Filters*, <https://act.mpowerchange.org/sign/venmo-persian-shenanigans/-fix-your-filters/>.

16. Flagging specific terms based on race, creed, or ethnicity is an overbroad and blunt means to address OFAC sanctions, going well beyond what the sanctions require. Indeed, nowhere does OFAC require such a system. In response to the question, “Does OFAC itself require that banks set up a certain type of compliance program,” OFAC is clear: “No. There is no single compliance program suitable for every financial institution. OFAC is not itself a bank regulator; its basic requirement is that financial institutions not violate the laws that it administers.” U.S. Department of the Treasury, Office of Foreign Assets Control, *Starting an OFAC Compliance Program* (June 2, 2020), https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_compliance.aspx.

17. Nor does OFAC authorize a compliance regime that is discriminatory. In fact, OFAC expressly provides:

The use of Sanctions List Search does not limit any criminal or civil liability for any act undertaken as a result of, or in reliance on, such use.

See OFFICE OF FOREIGN ASSETS CONTROL, SANCTIONS LIST SEARCH, <https://sanctionssearch.ofac.treas.gov/> (last viewed July 1, 2020).

18. Flagging every transaction involving a person of the same ethnicity or religion as a sanctioned country, subjecting it to heightened and burdensome administrative scrutiny, may *technically* be a way to ‘comply’ with OFAC sanctions. However, that does not change the fact that such a practice is overbroad and discriminatory. Suppose the NYPD were to stop and question every individual of a particular race just because a suspect of a crime belonged to an ethnic group, displayed certain characteristics, or ate at particular ethnic restaurants; that would clearly be profiling. That is precisely what is happening here. Accordingly, Respondent Venmo cannot simply use OFAC as a shield for its discriminatory practices, particularly when terms associated with different OFAC countries like Cuba, North Korea, and Iran are not treated equally.

19. A disparate impact exists under the NYCHRL where “a policy or practice of a covered entity or a group of policies or practices of a covered entity results in a disparate impact to the detriment of any group protected by the provisions of this chapter.” NYC Admin. Code § 8-107(17).

20. By its nature, the blanket use of Arabic terms, or terms associated with Islam, to flag transactions disproportionately impacts Muslims and those of Arabic or South Asian descent such as Ms. Hanif. This impact creates added inconvenience, scrutiny, and shame for these individuals who are protected by the provisions of the NYCHRL.

21. Ms. Hanif charges that Respondent implements a policy and practice of screening transactions using terms of an ethnic and religious nature, subjecting transactions to administrative delays and scrutiny. Ms. Hanif charges that this policy and practice disproportionately and detrimentally impacts Muslims and individuals of Arabic, Persian, and South Asian national origin or ethnicity or those perceived to be Muslim or those perceived to be of Arab, Persian, or South Asian national origin or ethnicity.

22. Respondent Venmo implemented a policy that resulted in a disparate impact against a group protected under the provisions of the NYCHRL, which includes Ms. Hanif, in violation of NYC Admin. Code § 8-107.

23. Ms. Hanif further charges that Respondent denied her the full and equal enjoyment, on equal terms and conditions, of accommodations, advantages, services, and facilities.

24. Ms. Hanif further charges that Respondent denied her full and equal enjoyment, on equal terms and conditions, of equal services on the basis of her actual or perceived creed, national origin, and/or alienage. Respondent provided Ms. Hanif with discriminatory service and refused to provide service to her by flagging her transaction without an adequate explanation.

25. As a result of the Respondent's violation of NYC Admin. Code § 8-107 *et seq.*, Ms. Hanif has suffered damages including, but not limited to, humiliation, embarrassment, and emotional distress. Additionally, Ms. Hanif seeks punitive damages against Respondent to deter future reprehensible conduct. NYCHRL violations, by their very nature, inflict serious harm "to both the persons directly involved and the social fabric of the city as a whole" (Rep. of Comm. on Gen. Welfare, Local Law No. 85 [2005], 2005 N.Y. City Legis. Ann. at 537). *See Chauca v. Abraham*, 30 N.Y.3d 325, 334 (COA 2017). Respondent's unlawful discriminatory practice of denying full and equal participation in the advantages, services, facilities, or privileges of a place of public accommodations, if allowed to persist, will greatly reduce the financial resources and services available for complainant and those similarly situated.

STATEMENT OF NO PRIOR FILINGS

26. Ms. Hanif has not previously filed any other civil or administrative action alleging an unlawful discriminatory practice with respect to the allegations of discrimination contained in the instant complaint.

Dated: July 21, 2020

Respectfully submitted,

/s/ Ahmed Mohamed

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LEB@cchr.nyc.gov
Via mail and e-mail

COMPLAINANT VERIFICATION

STATE OF NEW YORK)
): ss
COUNTY OF Kings)

The undersigned Complainant, being duly sworn, deposes, and says that the deponent has read the Complaint, and the contents of the petition are true to the deponent's own knowledge, except as to those matters which are alleged upon information and belief, and as to such matters the deponent believes them to be true.

Date: July 20, 2020

Brooklyn, New York

Shahana Hanif
Shahana Hanif

Sworn to before me this 20 day
of July 2020.

[Signature]
Notary Public

ABU S. CHOWDHURY
Notary Public, State of New York
No. 01CH6172358
Qualified in Kings County
Commission Expires Aug. 06, 2023