


<div>CHARGE OF DISCRIMINATION</div> <div>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</div>		<div>Charge Presented To: Agency(ies) Charge No(s):</div> <div><input type="checkbox"/> FEPA</div> <div><input checked="" type="checkbox"/> EEOC</div>	
<div>_____ and EEOC</div> <div>State or local Agency, if any</div>			
<div>Name (Indicate Mr., Ms., Mrs.)</div> <div>Jerry Jerome Harvey</div>		<div>Home Phone (Incl. Area Code)</div> <div></div>	<div>Date of Birth</div> <div></div>
<div>Street Address</div> <div></div>		<div>City, State and ZIP Code</div> <div></div>	
<div>Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two are named, list under PARTICULARS below.)</div>			
<div>Name</div> <div>CORE Foodservice</div>		<div>No. Employees, Members</div> <div>15+</div>	<div>Phone No. (Incl. Area Code)</div> <div>2106654470</div>
<div>Street Address</div> <div>55A Dwight Place</div>		<div>City, State and ZIP Code</div> <div>Fairfield, NJ 07004</div>	
<div>Name</div> <div>Acosta Inc.</div>		<div>No. Employees, Members</div> <div>15+</div>	<div>Phone No. (Incl. Area Code)</div> <div>9042819800</div>
<div>Street Address</div> <div>660 Corporate Center Parkway</div>		<div>City, State and ZIP Code</div> <div>Jacksonville, FL 32216</div>	
<div>DISCRIMINATION BASED ON (Check appropriate box(es).)</div> <div><input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN</div> <div><input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION</div> <div><input type="checkbox"/> OTHER (Specify)</div>			<div>DATE(S) DISCRIMINATION TOOK PLACE</div> <div>Earliest Latest</div> <div>06/2021 12/2023</div> <div><input type="checkbox"/> CONTINUING ACTION</div>
<div>THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):</div> <div>Supplemental Narrative Attached</div>			
<div>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</div>		<div>NOTARY – When necessary for State or Local Agency Requirements</div>	
<div>I declare under penalty of perjury that the above is true and correct.</div> <div>Aug 2, 2024</div> <div>Date</div> <div> Jerry Harvey (Aug 2, 2024 18:35 EDT)</div> <div>Charging Party Signature</div>		<div>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</div> <div>SIGNATURE OF COMPLAINANT</div> <div>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</div>	

EEOC CHARGE OF DISCRIMINATION NARRATIVE STATEMENT

1. Charging Party, Jerome Harvey, is a former Restaurant Depot Sales Representative at Core Food Services, (“Core” or the “Company”) Inc..

2. Charging Party asserts claims of unlawful discrimination and harassment based on race (black) as well as retaliation against Core and certain individual wrongdoers.

3. We trust that Mr. Harvey’s story will be seen exactly for what it is: a series of textbook violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”); the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, *et seq.* (“ADA”); the New York State Human Rights Law, New York State Executive Law, §§ 296 *et seq.* (“NYSHRL”); and the New York City Human Rights Law, Administrative Code §§ 8-107 *et seq.* (“NYCHRL”), which, together, give rise to a compendium of damages, including compensatory damages based on lost wages and emotional distress, as well as punitive damages, interest, attorneys’ fees, and legal costs.

I. Mr. Harvey’s Journey to Core and His Exemplary Performance at the Company

4. Before venturing into the food service industry, Mr. Harvey was a two-time national champion professional heavyweight boxer and had also been a runner-up in the eastern olympic trials in 2004. After retiring from his boxing journey, Mr. Harvey began working as Head Prep Cook at California Dreamings in Columbia, South Carolina. Mr. Harvey then took a position as an Expeditor for Acosta Food Service (“Acosta”), and it was not long before his ambition earned him a position in field sales support.

5. Mr. Harvey joined Reichenbach and Associates (Core's former name) as a Warehouse Manager (part-time) in or around September 2005 and worked part-time for approximately seven months. Mr. Harvey was hired by Herb Reichenbach at a salary of \$14/hour.

6. In May 2006, Mr. Harvey became a full-time employee at a salary of \$36,000. In 2009 or 2010, Reichenbach changed their name to Market Access. At this time, Mr. Harvey demonstrated excellent work performance and resultantly received a raise of \$10,000 after he started working with Butter Ball Turkey.

7. Mr. Harvey also demonstrated his admirable work ethic by being the only employee working on site during COVID-19 pandemic. On November 1, 2023, the Company changed its name to Acosta and bought Core Foodservice. Soon after, the Company changed its name to Core and moved its offices from One Plaza Road, Greenvale, NY, 11548 to 55 Dwight Place Fairfield New Jersey 07004.

8. Mr. Harvey had always been driven to secure a challenging sales position after establishing a record of exceeding targets at his previous jobs and building exceptional communication skills. At Core, Mr. Harvey became Captain of the Restaurant Depot Team and was honored with the "Broker of the Year" award from Restaurant Depot in 2010. His expertise encompasses a range of key skills essential for thriving in sales, including marketing, product knowledge, product demonstrations/presentations, effective communication, problem-solving, negotiation, and adaptability.

9. As a Warehouse Manager from September 2005 to May 2006 at Core, Mr. Harvey orchestrated seamless logistics operations, optimized inventory management, and ensured timely order fulfillment. His leadership in implementing efficient warehouse processing and improvements resulted in streamlined workflows and improved warehouse productivity.

10. In his tenure as a Sales Representative at Core Foodservice from May 2006 to December 2023, Mr. Harvey excelled in cultivating and managing key client relationships. Through personalized service and leveraging his in-depth product knowledge across multiple lines, Mr. Harvey consistently delivered exceptional customer experiences, resulting in consistent revenue growth. His proactive and targeted approach enabled him to consistently meet or exceed sales quotas, establishing a reputation for fostering long-term partnerships.

11. Furthermore, Mr. Harvey's proficiency in sales demonstrations allowed him to skillfully showcase products and features to potential clients and customers. Tailoring presentations to address specific needs and adeptly handling questions, Mr. Harvey effectively communicated unique value propositions, contributing significantly to successful conversions and increased sales revenue.

12. Additionally, Mr. Harvey holds a SERV safe certification and possesses key competencies in sales, account management, electronic recordkeeping, CRM utilization, marketing strategies, knowledge of food safety policies, conducting sales demonstrations, and organizing food show presentations.

II. Jim Orkin Subjects Mr. Harvey To Blatant Race-Based Discrimination

13. Mr. Harvey's assimilation at Core during his first few months went smoothly, however, things began to drastically change for the worse on June 28, 2021, when Jim Orkin, Vice President of Finance, began working closely with Mr. Harvey.

14. Before Mr. Harvey had joined Core, another employee, Roger Decon (black) who had worked with Mr. Orkin had warned Mr. Harvey to be wary of Mr. Orkin because of his "racist attitude towards black people." Another colleague named Anthony Alvarez, had warned Mr. Harvey by saying, "Jim is a snake, watch out for him - he used to own a broker's company and he

lost it, and he became even more mean and nasty. He is also worse to people of color.” Unfortunately, both the employees’ words rang true.

15. After the COVID-19 pandemic, when the Company changed its name from Acosta to Core, this move was accompanied by major layoffs. Despite the massive layoff and restructuring in around June 2021, Mr. Harvey was not laid off at any of these transition phases. At this time, Core employees in higher positions became in charge of the employees who had been a part of Acosta, which included Mr. Harvey.

16. At the time of Core’s inception, Mr. Harvey had two positions at Acosta: he supervised warehouse as Warehouse Manager where he packed samples and worked in Restaurant Depot as Demo Specialist.

17. On June 28, 2021, as Mr. Harvey was carrying out his duties as a Warehouse Manager by moving equipment from Acosta’s New York office to the newly opened Core office in New Jersey, Mr. Orkin called Mr. Harvey and lashed out, aggressively stating, “I need you to do [certain tasks] for Restaurant Depot!”

18. When Mr. Harvey explained that he could not do so at the moment because he was conducting his duties as a warehouse manager and was driving a truck, Mr. Orkin rudely said, “you no longer have two positions, and you answer to me!” This was Mr. Orkin’s first time speaking directly to Mr. Harvey; the first time they had been introduced to each other was over a Zoom meeting in May 2021, and Mr. Orkin had had the opportunity to see that Mr. Harvey was the only black man on the team consisting of 20 employees (the team consisted of primarily white employees with one Hispanic employee and one Asian employee).

19. Surprised by Mr. Orkin’s rude and aggressive tone, Mr. Harvey texted Michelle Lewinsky, Office Manager at the time, and complained about Mr. Orkin’s behavior towards him.

Ms. Lewinsky had always treated Mr. Harvey with respect and had been someone whom he could reach out to. However, the very next day, Ms. Lewinsky – along with all the females in higher positions at the Company – was demoted and her high-level position was given to Mike DiTommaso who now became Office Manager. Ms. Lewinsky became the Assistant Office Manager.

20. On June 29, 2021, Mr. Harvey complained to Mr. DiTommaso about Mr. Orkin's behavior. Mr. DiTommaso contacted Mr. Orkin and told him Mr. Harvey was driving a truck to New Jersey and he was merely doing his job as instructed. However, Mr. Orkin continued to harass Mr. Harvey and said that he "no longer answered to anybody else." Mr. Orkin's aggressive behavior continued unabated despite Mr. Harvey's complaints to Mr. DiTommaso and Ms. Lewinsky.

21. Soon after, Mr. Harvey discovered that Mr. Orkin tended to convey one message in person and then contradict himself over email. For example, in person, Mr. Orkin would instruct Mr. Harvey to go to Brooklyn once a month but would later send him an email (including higher ups at the Company to the email) questioning Mr. Harvey why he had not sent him reports from his multiple visits to Brooklyn, despite knowing that Mr. Harvey only went to Brooklyn once a month, as per his instructions.

22. Notably, Mr. Orkin would not include Ms. Lewinsky and Mr. DiTommaso – people who had a great professional relationship with Mr. Harvey.

23. Mr. Orkin also targeted Mr. Harvey by regularly interrupting him while he spoke, ignoring his ideas during meetings, talking over him by saying "I am not talking about this right now," belittling him by hanging up the phone as he spoke and using a harsh tone that he did not use with other white employees.

24. His tone was noticeably more aggressive towards Mr. Harvey and Sophia Dinome, Field Salesman at Restaurant Depot (in Mr. Harvey's teams).

25. On November 15, 2023, as Mr. Harvey was on his way to meet with Mr. Orkin in Staten Island, Mr. Orkin rudely instructed him to "hurry up" on the phone. Mr. Harvey texted him, "don't tell me to hurry up like I'm a child," after which Mr. Orkin apologized. Mr. Orkin also did not appreciate how well-liked Mr. Harvey was by the other employees at the Company.

26. Moreover, when Mr. Harvey opened up a restaurant, all his colleagues have showed up to show support except Mr. Orkin. Mr. Orkin's jealousy and disdain towards Mr. Harvey's professional achievements underscored the pervasive racial bias within the Company.

27. On March 21, 2022, the Company had a group sales meeting consisting of about 30 people and all the employees were told that they were allowed to take home samples such as pasta, coffee, sodas, chicken, and rice etc. As Mr. Harvey walked to get a single cup of coffee for himself, Mr. Orkin singled him out in front of his colleagues, and angrily yelled, "Jerry don't take anything from the warehouse today" in front of everyone. Shocked, Jerry stood there with tears in his eyes in front of his colleagues.

28. He had never been so embarrassed. As this was happening, others were collecting free groceries to take home. Humiliated, Mr. Harvey immediately sought out Mr. DiTomasso to complain about the incident. Upon seeing Mr. Harvey cry, Mr. DiTomasso hurriedly approached Mr. Orkin and inquired about what had materialized to which Mr. Orkin responded, "it is not just Jerry, I want Sophia to not take them [free groceries] too." Mr. DiTomasso said, "its ok Jerry can take it too."

29. After this shameful incident, another colleague approached Mr. Harvey and expressed his shock at Mr. Orkin's disparate treatment. By singling out Mr. Harvey – the only

black employee on the team – and humiliating him in front of other team members, Mr. Orkin had undeniably displayed his discriminatory animus towards Mr. Harvey.

III. Mr. Harvey Continues to Make Protected Complaints About Mr. Orkin's Discriminatory Treatment But His Pleas Are Ignored; Mr. Orkin Continues to Discriminate Against Mr. Harvey Unabated

30. On August 13, 2021, Mr. Harvey complained to Ms. Lewinsky that there were discrepancies in what Mr. Orkin stated to him in person and what he wrote on email. To this Ms. Lewinsky suggested that Mr. Harvey should go on record and write emails to Mr. Orkin about what he said in person.

31. On December 21, 2021, Mr. Harvey complained to Ms. Lewinsky about Mr. Orkin's racist behavior to which Ms. Lewinsky messaged Mr. Harvey saying, "You are very important to the company" and she told him to "hold on" because she recognized that Mr. Harvey was being targeted. She told him that she would help him transition to the Cisco team, away from Mr. Orkin and asked him to fill out an application for the position which he did fill out. However, he was terminated before he found out about that job.

32. Despite assurances of support and attempts to facilitate a job transfer, the discriminatory conduct persisted, culminating in Mr. Orkin committing even more reprehensible actions.

33. On March 16, 2022, Mr. Harvey made another attempt to complain to Ms. Lewinsky about the invidious discrimination he faced. Mr. Harvey mentioned that he was so "nervous" while working that he could not think properly to which Ms. Lewinsky responded that he should go to HR.

34. Following her advice, Mr. Harvey sent an email to Stephanie Hernandez, HR member, and called her to report Mr. Orkin's racist behavior, and his tendency to belittle Mr.

Harvey. Unfortunately, the only action that the Company took to redress the discrimination was to promote Kevin Wagler – Mr. Harvey’s colleague who had been at the Company for fewer years than Mr. Harvey – to Assistant Supervisor and make him in charge of Mr. Harvey.

35. Moreover, at this time, Mr. Harvey discovered that other white male employees who had joined the Company much later than Mr. Harvey were earning about \$81,000 whereas his salary was \$57,000. Mr. Orkin openly targeted Mr. Harvey by denying him promotions and raises and instead giving them to other white male employees. For example, in December 2022, Mr. Orkin gave Mr. Harvey a bonus of \$500 whereas other sales representatives in similar positions got bonuses of \$2,500 despite Mr. Harvey taking on additional duties and working at the Company longer.

36. The only other person who received such a low raise was Ms. Dinome, whom Mr. Orkin was discriminatory towards too.¹ Clearly, Mr. Harvey – the only black male on the team – was being treated differently than his peers.

37. Despite Mr. Harvey’s protected complaints, Mr. Orkin continued to make openly racist remarks to Mr. Harvey. On September 5, 2022, Mr. Harvey was unable to attend Mr. Orkin’s call due to poor signal strength in the warehouse. Mr. Harvey rushed to use the restaurant depot phone to call Mr. Orkin and explained that he was unable to pick up the phone due to poor signals. Mr. Orkin responded, “There is always something with *you people*,” and then shut the phone rudely. Such a blatantly racist statement surprised Mr. Harvey who decided to make another complaint on September 7, 2022.

38. After a sales meeting, Mr. Harvey met with Mr. Orkin and Mr. DiTomasso to address the racially charged statement. In front of Mr. DiTomasso, Mr. Harvey told Mr. Orkin,

¹ Prior to joining the Core team, Mr. Harvey had received a bonus of \$2,500 when Ms. Lewinsky had been his supervisor.

“You are racist,” “you are a slave master,” and “you hung up in my face when I was talking to you and belittled me.” Then you told me *there is always something with you people*,” to which Mr. Orkin responded, “I did not say it like that.” Angered by the blatant lie, Mr. Harvey suggested that Mr. Orkin take a lie detector test to which Mr. Orkin responded with silence.

39. About two months later, Mr. Orkin apologized and stated been undergoing surgery when he made the comments.

40. The Company’s failure to adequately intervene effectively exacerbated the situation, creating a toxic work environment that left Mr. Harvey feeling isolated and devalued.

41. On June 25, 2023, the corporate restaurant depot had a meeting where they required some members of Core to cook. Mr. Wagler, Mr. Orkin, and Bob Lavik tt(all white) were responsible for cooking but ultimately, Mr. Harvey ended up doing a significant portion of the job.

42. After cooking, Mr. Kevin and Mr. Orkin aggressively yelled at Mr. Harvey and instructed him, “Jerry do the dishes!” Shocked by the condescending and curt tone of command, Mr. Lavik walked outside to the front of the building and was highly upset because of the disrespect directed at Mr. Harvey.

43. Mr. Harvey ended up cleaning the dishes and the kitchen – tasks that all of them were supposed to do together. Later, Mr. Lavik returned to the kitchen and told Mr. Harvey, “I am sorry, they did not help you with the dishes and left it all to you.”

44. Mr. Harvey reassured Mr. Lavik not to worry about it, and when Mr. Lavik expressed that he was going to confront Mr. Orkin about his tone, Mr. Harvey told him not to say anything because it would not make a difference.

IV. The Company Denies Mr. Harvey Reasonable Accommodations

45. In late January 2023, Mr. Harvey hurt his wrist while working at the Company. When Mr. Wagler asked Mr. Harvey to lift heavy materials at work, Mr. Harvey requested to do light duties, which Mr. Wagler approved. In February 2023, Mr. Harvey visited multiple doctors to get MRIs because his pain was not subsiding.

46. In October 7, 2023, after Mr. Harvey's mother passed away, everyone at the Company expressed their condolences to Mr. Harvey and were kind to him. However, Mr. Wagler approached Mr. Harvey and said, "I know you are going through this situation so let me take your mind off – now get back in the store!" Upset by the lack of empathy, Mr. Harvey glumly said, "Kevin my mom just died, and you don't even care." This instance illustrated the lack of Mr. Wagler had towards Mr. Harvey.

47. In mid-October 2023, Mr. Wagler asked Mr. Harvey to lift heavy materials unnecessarily despite knowing that Mr. Harvey had severe pain in his wrist. Mr. Harvey said he could not do so, and Mr. Wagler requested Mr. Harvey to produce a doctor's note.

48. On October 19, 2023, Mr. Harvey requested his doctor for "lighter duty reasonable accommodation" and sent a picture of his doctor's letter to Mr. Wagler. Mr. Wagler did not respond to Mr. Harvey for approximately a week. However, on October 23, 2023, Mr. Wagler put Mr. Harvey out on sick leave for five days without informing Mr. Harvey. The same day, after Mr. Harvey noticed what Mr. Wagler had done, he called Ms. Hernandez and asked her if he should get an attorney involved because Mr. Wagler had been taking decisions on Mr. Harvey's behalf without informing him.

49. On October 25, 2023, Mr. Harvey received a call from Ms. Hernandez asking him why she had not received his paperwork for short term disability for his wrist injury. Specifically,

she stated, “I do not see that you have filed a leave with Matrix [database for short term disability processing]. Please contact Matrix as soon as possible to start the leave process to prevent any interruption in your pay.”

50. Mr. Harvey inquired why he could not do lighter duties given that all he had to do was take pictures, straighten out shelves and write reports. Ms. Hernandez said that Mr. Wagler could not accommodate his light duty request, and that he will need to contact the leave vendor, Matrix, to apply for short term disability benefits until he was able to return to work full duty. Mr. Harvey responded that he had been working all week and was not aware that he had to file any paperwork. He told her that he had not spoken to Mr. Wagler.

51. On October 26, 2023, Ms. Hernandez called Mr. Wagler and DJ White and informed Mr. Harvey that according to their employee handbook, Mr. Wagler had to lift 50 pounds even though the job did not require him to lift heavy objects to place on shelves. They told him that he would have to go on short term disability and instructed him to stop working immediately.

52. Following this meeting, whenever Mr. Harvey would call Mr. Orkin or Mr. Wagler, they would not respond to him or speak to him about his job. On November 6, 2023, Mr. Harvey’s doctor told him he could return to work. As soon. Shortly after, Mr. Wagler began to harass Mr. Harvey by asking him to lift heavy materials.

53. After the 40 hours / five day sick time had ended, Mr. Harvey requested his doctor to remove the reasonable accommodation request so that Mr. Harvey could keep his job. Mr. Harvey did so because of Mr. Wagler’s retaliation towards him immediately after he requested reasonable accommodation.

V. Mr. Harvey is Unlawfully Terminated

54. On December 1, 2023, Mr. Harvey reached out to Ms. Hernandez to seek grief counseling after the death of his mother in October 2023. Ms. Hernandez informed him that someone would be reaching out to him. Merely a few hours later, Mr. Harvey received a phone call from Mr. Wagler, who told him that Mr. Orkin was on the call with him and then informed Mr. Harvey that the Company had decided to go in a “different direction” implying that Mr. Harvey had been terminated. When Mr. Harvey said, “thanks for letting me know,” Mr. Orkin chuckled and said, “no you don’t get it we are not working you anymore!” to mock and degrade him one last time.

55. Despite Mr. Harvey’s determination to remain optimistic about and committed to his career at Core, the ruthless discrimination and retaliation he has suffered at his workplace has rendered him distraught and crestfallen.

56. Indeed, Mr. Harvey’s emotional distress is cognizable given the reality that the Company has allowed Mr. Orkin to openly express his derogatory and racist remarks towards Mr. Harvey without repercussion, while ignoring its obligations to seriously investigate Mr. Harvey’s complaints of discrimination, and instead, terminating his employment for no valid reason. Instead of disciplining his harasser, Core retaliated against Mr. Harvey a mere few weeks after he engaged in protected activity by firing him.

57. Due to his unlawful termination from the Company and the discrimination, harassment, and retaliation he has endured, Mr. Harvey has been in therapy for his mental health to help cope with the immense stress and uncertainty he must now navigate in what has become the most difficult period of his life.

58. Core's horrendous discriminatory and retaliatory treatment of Mr. Harvey has left him devastated and has caused significant harm, both economically and emotionally. As a result of his abrupt and unlawful termination, Mr. Harvey has suffered and continues to suffer from depression, anxiety, and sleep disorders, among other ailments.