



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**Office for Civil Rights**

Office of the Secretary  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W.  
Washington, D.C. 20201  
<http://www.hhs.gov/ocr>

December 11, 2024

**VIA EMAIL AND CERTIFIED MAIL (RETURN RECEIPT REQUESTED)**

Chris Utecht, General Counsel  
Warby Parker, Inc.  
233 Spring St., 6<sup>th</sup> Floor East  
New York, NY 10013 [chris.utecht@warbyparker.com](mailto:chris.utecht@warbyparker.com)

Re: Warby Parker, Inc.  
OCR Reference Number: 19-327224

**NOTICE OF FINAL DETERMINATION**

Dear Chris Utecht:

Pursuant to the authority delegated by the Secretary of the United States Department of Health and Human Services (HHS) to the Director of the Office for Civil Rights (OCR), I am writing to inform you that the civil money penalty (CMP) of **\$1,500,000.00** against Warby Parker, Inc. (formerly known as JAND, Inc. d/b/a Warby Parker) (hereafter referred to as "Warby Parker") is final. This letter also contains instructions for Warby Parker to make payment of the CMP amount.

**I. Warby Parker is Waiving the Right to Request a Hearing Before an Administrative Law Judge and Petition for Judicial Review**

By letter dated September 5, 2024, OCR issued Warby Parker a Notice of Proposed Determination (attached hereto), informing Warby Parker that OCR was proposing to impose a CMP in the amount of **\$1,500,000.00** based on the findings of the facts of noncompliance specified in the letter. The Notice of Proposed Determination stated that Warby Parker has a right to request a hearing on the proposed CMP within ninety (90) days of the date of receipt of the letter and provided instructions on requesting a hearing with the Departmental Appeals Board. The Notice of Proposed Determination further advised that failure to request a hearing within this time period could result in the imposition of the proposed CMP without a hearing under 45 C.F.R. § 160.504 or the right of appeal under 45 C.F.R. § 160.548. Warby Parker received the Notice of Proposed Determination on September 10, 2024, via a duly registered process server, and on September 11, 2024, via email. Warby Parker also received the Notice of Proposed Determination on September 12, 2024, when it was delivered by certified mail. Warby Parker did not request a hearing with

the Departmental Appeals Board in accordance with the instructions in the Notice of Proposed Determination.

By letter dated December 10, 2024, sent via email to OCR, Warby Parker's counsel advised that Warby Parker was not contesting the imposition of a CMP. Accordingly, by operation of Warby Parker's waiver of its procedural rights to challenge the CMP under 45 C.F.R. Part 160 Subparts D and E and 42 U.S.C. § 1320a-7a, the CMP referenced above is now final. Therefore, pursuant to the authority delegated by the Secretary of HHS to the Director of OCR, I am authorized to impose the CMP against Warby Parker in the full amount of **\$1,500,000.00**, as set forth in the Notice of Proposed Determination.

## **II. No Right of Appeal**

Warby Parker has no right to appeal the imposition of the CMP under 45 C.F.R. § 160.548 since Warby Parker waived its right to appeal OCR's proposed determination and to request a hearing.

## **III. Instructions for Payment of the CMP Amount**

Payment of the full and aggregate amount of **\$1,500,000.00** is due upon Warby Parker's receipt of this Notice of Final Determination. Payment can be made in accordance with the instructions enclosed with this Notice.

## **IV. Consequences of Nonpayment**

In the event that payment is not received upon Warby Parker's receipt of this Notice of Final Determination, a civil action may be brought in the United States District Court to recover the amount of the penalty.

## **V. The Legal Basis for This Action**

This action is being taken under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), § 262(a), Pub.L. 104-191, 110 Stat. 1936, as amended, codified at 42 U.S.C. § 1320d-5, and under the enforcement regulations at 45 C.F.R. Part 160, subpart D. The Secretary of HHS is authorized to impose CMPs (subject to the limitations at 42 U.S.C. § 1320d-5(b)) against any covered entity, as described at 42 U.S.C. § 1320d-1(a), that violates a provision of Part C (Administrative Simplification) of Title XI of the Social Security Act. *See* 42 U.S.C. § 1320d-5(a), as amended. This authority extends to violations of the regulations commonly known as the Privacy Rule promulgated at 45 C.F.R. Part 160 and subparts A and E of Part 164, pursuant to Section 264(c) of HIPAA. The Secretary has delegated enforcement responsibility for the Privacy Rule to the Director of OCR. *See* Office for Civil Rights; Statement of Delegation of Authority, 65 Fed. Reg. 82381 (Dec. 28, 2000).

If you have any questions concerning this letter, please contact Emily Crabbe, OCR Senior Advisor, at (404) 562-7878.

Sincerely,

/s/

Melanie Fontes Rainer  
Director  
Office for Civil Rights  
U.S. Department of Health and Human Services

Enclosed:  
Payment Instructions  
Notice of Proposed Determination (September 5, 2024)

cc: Iliana Peters, **REDACTED**