

COMMONWEALTH OF MASSACHUSETTS

COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION  
AGAINST DISCRIMINATION and  
IMMACULA SAINT LOUIS,  
Complainants

v.

DOCKET NO. 97-BPA-2788

LA REINE BOUTIQUE and  
MIREILLE STANBRO,  
Respondents.

DECISION OF THE FULL COMMISSION

This matter comes before us following a decision of Hearing Officer Betty Waxman in favor of Complainant Immacula Saint Louis. Following an evidentiary hearing, the Hearing Officer concluded that Respondents were liable for unlawful discrimination on the basis of race in a place of public accommodation in violation of M.G.L. Chapter 272, section 98. Respondents filed an appeal to the Full Commission.

The responsibilities of the Full Commission are outlined by statute, the Commission's Rules of Procedure (804 CMR 1.00 et. seq.), and relevant case law. It is the duty of the Full Commission to review the record of proceedings before the Hearing Officer. G.L. c. 151B, Section 5. The Hearing Officer's findings of fact must be supported by substantial evidence, which is defined as "...such evidence as a reasonable mind might accept as adequate to support a finding...." Katz v. MCAD, 365 Mass. 357, 365 (1974); G.L. c. 30A.

It is the Hearing Officer's responsibility to evaluate the credibility of

witnesses and/or to weigh the evidence when deciding disputed issues of fact. The Full Commission defers to these determinations of the Hearing Officer. See, e.g., School Committee of Chicopee v. MCAD, 361 Mass. 352 (1972); Bowen v. Colonnade Hotel, 4 MDLR 1007. 1011 (1982). The Full Commission's role is to determine whether the decision under appeal was rendered in accordance with the law, or whether the decision was arbitrary or capricious, or was otherwise not in accordance with the law. See 804 CMR 1.16(f).

We have carefully reviewed Respondents' contentions on appeal and the full record in this matter and have weighed all the objections to the decision in accordance with the standard of review herein. As a result of that review, we find no material errors of fact or law with respect to the Hearing Officer's findings and conclusions of law. We find the Hearing Officer's conclusions were supported by substantial evidence in the record and we defer to them. On the above grounds, we deny the appeal and affirm the Hearing Officer's decision in its entirety.

#### ORDER

For the reasons set forth above, we hereby affirm the findings of fact and conclusions of law and the Order of the Hearing Officer and issue the following ORDER of the Full Commission:

(1) Respondents shall immediately cease and desist from engaging in further acts of discrimination.

(2) Within sixty (60) days of receipt of this Order, Respondents shall pay to Complainant the sum of \$8,000 in damages for emotional distress, with interest thereon at the statutory rate of 12% per annum 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) The parties shall immediately notify the Clerk of the Commission when Respondents make the required payments. Complainant shall also notify the Commission if Respondents fail to comply with the terms of this Order within the time period allotted.

This order represents the final action of the Commission for purposes of M.G.L. c.30A. Any party aggrieved by this final determination may contest the Commission's decision by filing a complaint in superior court seeking judicial review, together with a copy of the transcript of proceedings. Such action must be filed within thirty (30) days of receipt of this decision and must be filed in accordance with M.G.L. c.30A, c.151B, s.6, and the 1996 Standing Order on Judicial Review of Agency Actions. The filing of a petition pursuant to M.G.L. c.30A does not automatically stay enforcement of this order. Failure to file a petition in court within thirty (30) days of receipt of this order will constitute a waiver of the aggrieved party's right to appeal pursuant to M.G.L. c.151B, s.6.

SO ORDERED this 20th day of March, 2007.

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Walter J. Sullivan, Jr.<sup>1</sup>  
Chairman

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Martin S. Ebel  
Commissioner

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<sup>1</sup> Investigating Commissioner sitting by necessity to establish a quorum. See M.G.L. c .6, § 56, M.G.L. c.151B, § 5.

