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LEXINGTON-FAYETTE URBAN COUNTY
HUMAN RIGHTS COMMISSION

LFUC HUMAN RIGHTS COMMISSION

AARON BAKER FOR GAY & LESBIAN
SERVICES ORGANIZATION

HRC NO. 03-12-3135

V.

HANDS ON ORIGINALS, INC.

DETERMINATION OF PROBABLE CAUSE
AND
CHARGE OF DISCRIMINATION

I. JURISDICTION

Charging Party consists of Aaron Baker, President and representative of Gay & Lesbian Services Organization who claims to be aggrieved. The Charging Party filed a verified complaint with Lexington-Fayette Urban County Human Rights Commission on March 28, 2012. Charging Party alleges that on or about March 8, 2012, Respondent denied them the full and equal enjoyment of a service when they refused to conduct business with their organization in the form of printing t-shirts for the 2012 Pride Festival. Charging Party states that Respondent told them that their Pride Festival t-shirt printing quote would not be honored because Respondent claims itself a "Christian organization" and did not want to communicate the message expressed on the t-shirt. Charging Party alleges that Respondent's reason for denying their organization service was based on sexual orientation.

The Respondent, Hands on Originals, Inc. is a commercial business within Fayette County whose primary business enterprise is printing promotional materials, which include, but are not limited to shirts, hats, bags, blankets, cups, bottles and mugs. Respondent is not exempt from Local Ordinance 201-99.

The complaint is filed based on sexual orientation and is timely filed in that the most recent occurrence was on or about March 8, 2012. The Charging Parties signed the complaint with the Lexington Human Rights Commission on March 28, 2012, within the 180-day period.

II. SUMMARY OF ALLEGATION IN SUPPORT OF THE CHARGE

A. LEGAL AUTHORITY

1. It is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and

accommodations of a place of public accommodation, resort, or amusement, as defined in KRS 344.130, on the ground of sexual orientation.

2. It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed or mailed, a written, printed, oral, or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodation of a place of public accommodation, resort, or amusement will be refused, withheld from, or denied an individual on account of sexual orientation.

B. PARTIES

1. The Charging Party, Gay & Lesbian Services Organization, was at all times relevant to this complaint; an organization located at 389 Waller Avenue, Suite 100 herein Lexington-Fayette County, Kentucky.
2. Respondent, Hands on Originals, Inc., was at all times relevant to this complaint; a commercial business located at 990 West New Circle Road herein Lexington-Fayette County, Kentucky.

C. FACTUAL ALLEGATIONS

1. Local Ordinance 201-99 Sec. 2-32 (2-a) states that an “individual” who claims to be aggrieved may file a complaint with the Commission. However, Local Ordinance 201-99 does not define “individual”. Past and recent history shows that it is lawful for organizations such as the Gay & Lesbian Services Organization to file a complaint of discrimination. See *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000), *Heart of Atlanta Motel Inc. v. United States*, 379 U.S. 241 (1964), and *Gay Student Services v. Texas A&M University*, 737 F. 2d 1317 (1984).
2. Precedent cases in discrimination litigation have historically shown interpretation beyond the red letter of the law. Although Local Ordinance 201-99 states that it is an unlawful to deny an “individual,” courts have been known to broaden that definition, *Pierson v. Ray*. Anti-discrimination laws can be interpreted to extending protection to organizations. The investigation has shown that standing is available to any individual or group that can show “injury of fact” from any discriminatory practice.
3. The investigation reveals that Charging Party holds an annual event in support of the LGBTQQIA community entitled, the Lexington Pride Festival. The investigation reveals that Charging Party traditionally holds this event on the last Saturday of each June in honor of Gay Pride Month, which makes its 2012 date, June 30th.

4. The investigation reveals that Charging Party spends a considerable amount of time planning each yearly event, including finding volunteers and sponsors, and creating merchandise for the event.
5. The investigation reveals that on or about February of 2012, Charging Party, GLSO Board Member, Don Lowe contacted three (3) t-shirt printing companies in order to get price quotes for t-shirts for the 2012 Pride Festival. At that time, Lowe received a quote from Respondent employee, Kaleb Carter, which was later presented at a Pride Festival meeting on or about March 8, 2012.
6. The investigation reveals that Lowe presented the design and communicated with Carter regarding the design via email on or about early February of 2012. The investigation reveals, via Respondent testimony that once Carter received the requested logo, on or about February 8, 2012, that he told Charging Party "This should work just fine". The investigation reveals that Carter did not turn down the order when he reviewed the logo request.
7. The investigation reveals that on or about, March 8, 2012, Lowe contacted Respondent again in order to secure a deposit for the original quoted t-shirt request. The investigation reveals that on or about March 8, 2012, when Lowe contacted Respondent, he could not remember the name of the original person he spoke to therefore, he was eventually transferred to Respondent owner, Blaine Adamson of Hands On Originals, Inc.
8. The investigation reveals via Charging Party as well as Respondent that once both parties were on the phone, on or about March 8, 2012, to discuss the deposit, they both realized that Adamson was not the person who originally gave Charging Party the t-shirt quote. The investigation reveals that upon realization, Respondent began to ask Charging Party questions regarding the quote. The Respondent and Charging Party both stated that during this conversation Respondent, Adamson, asked Lowe, what the GLSO was, what its mission was and what it was promoting.
9. The investigation reveals via Charging Party and Respondent testimony, that upon learning what the GLSO's mission is, and that the t-shirts were for the Pride Festival, Respondent then told Charging Party that they were a Christian organization and that they could not print the t-shirts because their religious convictions would not allow them to promote an event that encouraged people to be proud of homosexual behavior.
10. The investigation reveals that Respondent then offered to give Charging Party the name of another company who would honor the price quote and print the t-shirts, which Charging Party refused. Although Respondent defends its decision to reject the business by stating that they offered Charging Party the contact information of a company who would print the shirts, does not negate the fact that Respondent failed to provide Charging Party with the requested business transaction based on their sexual orientation.
11. In this investigation, Respondent states that their organization is a Christian organization, citing that they have a Christian division called "Hands On Originals Christian Outfitters". The Local Ordinance 201-99 Sec. 2-33 (7) states that its "provision does not apply to a religious institution or to an

organization operated for charitable or educational purposes, which operated, supervised, or controlled by a religious corporation, association or society except that when such institution or organization received a majority of its annual funding from any federal, state, local or other government body or agency or any combination thereof, it shall not be entitled to this exception.”

12. The investigation reveals, per Local Ordinance 201-99 Sec. 2-33 (7), that Respondent, Hands On Originals, is not excluded from the law, and not considered a religious organization, as their main function is to produce goods and services to the general public. The investigation reveals via Local Ordinance 201-99, that Respondent is a public business and a place of public accommodation that must abide by local business laws.
13. Throughout this investigation, Respondent denies discrimination against Charging Party’s sexual orientation. Respondent states that they did not discriminate against Charging Party because of their sexual orientation, however did deny printing the t-shirts based on the “message” it contains. The investigation reveals that the t-shirt that Charging Party wanted printed was one with a stylized number “5”, with multi colored circles within the body of the 5, and on the shirt the words “Lexington Pride Festival.”
14. In the position statement provided by Respondent, it was stated that Respondent did not want to communicate a message that people should be proud about engaging in homosexual behavior, same sex relationships nor did they want to promote the Pride Festival. In the position statement provided by Respondent, it is stated that other t-shirt designs with crude sayings and messages that conflict with the owners’ religious and moral convictions have been denied for printing by Respondent. Some examples given by Respondent were t-shirts stating “rock out with your hop out”, “cummingtonite”, a t-shirt with the word “bitches” on it as well as a t-shirt request with a photo of Jesus walking on water next to a pirate ship.
15. During an interview with Respondent, Adamson stated that he reviews all orders before they are placed, and states that his employees are told to present to him any designs which may be inappropriate before printing.
16. Upon further review of orders placed by customers, the investigation reveals that there were t-shirts printed with messages or sayings, which could be interpreted as crude or in conflict with a person’s Christian beliefs. The investigation revealed t-shirts which Respondent printed as follows; a t-shirt that said “Size Does Matter”, a design for a brewery with a picture of a man poking his nipple, and a t-shirt with a picture of a horse from behind with the words “Nice Mass.”
17. The investigation reveals that the t-shirt that GLSO wanted printed did not contain any sort of crude slogan, stated or implied, comparable to those mentioned by Respondent or printed by Respondent. The investigation reveals that the stylized number “5” with the words Lexington Pride Festival are not more offensive than other shirts that were printed by Respondent.
18. During this investigation, an anonymous witness and former employee of Hands on Originals contacted the Lexington-Fayette Urban County Human Rights Commission with information regarding his employment. The

investigation revealed that the anonymous witness states he worked for HOO for about four (4) years from about 2005 until about 2009, and states that HOO is “hiding behind their Christianity”. The witness presented the Commission with examples of some t-shirts he printed while working at Hands on Originals, Inc. that were not rejected and were offensive. The investigation reveals, via this interview with the anonymous witness that HOO printed a t-shirt that read “fuck you” when read upside down as well as another t-shirt for a business that had a picture of a naked woman bent over on the front, and read the words “liquor in the front, poker in the rear.” Thus, adding to this investigation other examples of non-Christian like t-shirts being printed by Respondent.

19. As previously mentioned, Respondent denies discrimination against Charging Party’s sexual orientation, however did admit to denying printing the t-shirts based on the “message” it contains. The investigation reveals that the image on the t-shirt was in fact to promote an event that supports the LGBTQQIA community, and that the purpose of the event, the Pride Festival, is to celebrate the existence of the LGBTQQIA community.
20. The t-shirt requested by the GLSO was to promote an event, the Pride Festival, where the LGBTQQIA community would celebrate their identity and their sexual orientation, a class, which is protected under Local Ordinance 201-99. The “message” that Charging Party, who belongs to a protected class, requested to print was a message of their identity pertaining to this protected class, one’s sexual orientation as defined by law. In this particular situation it is impossible to separate the message on the shirt and the customer as they coincide with each other.
21. As mentioned, per the position statement provided by the Respondent as well as Charging Party testimony, it is cited that Blaine Adamson asked not only about what the t-shirt design was promoting but questioned whom the GLSO was and what their mission was. Respondent admits to questioning the identity of the organization, which he then based his decision for denial from. Charging Party’s organization, whose prime function is to support the LGBTQQIA community, is something that Respondent clearly states, on several occasions, that he does not support based on his personal religious convictions. The investigation thus reveals that the identity, that of sexual orientation – a protected class, was a factor in Respondent’s decision to deny services to the organization.
22. Throughout this investigation, Respondent has contradicted themselves on various occasions, in which they stated that it was not the organization that they rejected, but rather the message on the shirt that was denied. However the investigation reveals the first employee, Kaleb Carter, who viewed the design, did not reject the shirts logo or “message”. Also the investigation reveals that if Respondent, Adamson, truly rejected the shirt based on the message it carried, then he would have rejected it after seeing the t-shirt design rather than immediately upon learning who it was being printed for.
23. Throughout this investigation, Respondent states that the reason they refused to print the t-shirts was because Respondent, Adamson did not want to

“promote” the Pride Festival and the “messages advocated at the event.” The investigation reveals that Charging Party did not request Respondent to use their company name or logo in order to promote the event, but rather requested Respondent to provide Charging Party, a potential customer, a product in exchange for the originally quoted dollar amount.

24. In the argument presented by Respondent via their position statement, Respondent uses the examples of a homosexual business owner refusing to print a message that homosexuality is wrong, as well as an example of an African American business owner having the ability to legally reject printing promotional materials for a Klan rally. In this position statement, Respondent claims that if these acts of rejection are not considered discrimination, then homosexual and African American business owners are being treated better than Christian business owners.
25. The investigation reveals that this information is not valid and cannot be used as a comparison with the case in question. The example that a homosexual business owner would be allowed to legally deny an individual from printing a message that states homosexuality is morally wrong is an accurate statement. Since this statement does not identify the potential customer to be one of a protected class.
26. Also, the investigation reveals that African American business owners may in fact legally reject orders from the Ku Klux Klan, because the Ku Klux Klan is not a group within a protected class as stated in Local Ordinance 201-99 Sec. 2-33 (1).
27. In the Respondent’s position, they stated that if the previously mentioned circumstances were legal, then homosexual and African American business owners are treated better than Christian owners. This information is invalid since Local Ordinance 199-94 and Local Ordinance 201-99 were not put into place as a form of protection for business owners. The laws were put into place to protect the consumers and the general public.
28. The investigation reveals that Respondent references the fact that they have hired, employed and still currently employ individuals who identify as homosexual. Respondent also references that they have filled orders for customers who have identified as homosexual in the past and state they will continue to do so in the future. The investigation reveals that both of these comments regarding treatment of homosexuals in other situations are irrelevant. The investigation reveals that although Respondent states that they have not denied business to one customer based on their sexual orientation, does not eliminate the fact that they denied GLSO business based on their sexual orientation.

D. LOCAL ORDINANCE VIOLATIONS

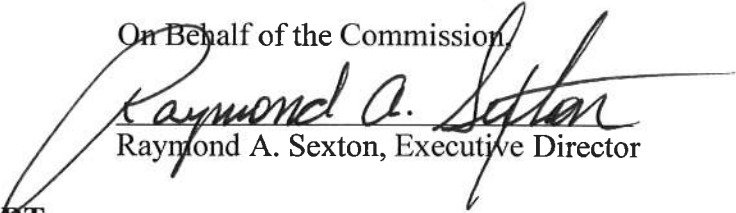
The Respondent by refusing Charging Party the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodation of a place of public accommodation resort, or amusement, as defined in KRS 344.130 has violated Local Ordinance 201-99.

1. The Respondent by refusing Charging Party the full and equal enjoyment of a place of public accommodation as defined by KRS 344.130 has violated Local Ordinance 201-99.
2. The Respondent by directly or indirectly, published, circulated, issued, displayed, or mailed, caused to be published, circulated, issued, displayed, or mailed, a written, printed, oral, visual communication, notice or advertisement, which indicated that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement will be refused, withheld from, or denied an individual on account of sexual orientation has violated Local Ordinance 201-99.

III. CONCLUSION

1. That declares that the discriminatory practices of Respondent as set forth above violates Local Ordinance 201-99;
2. That enjoins the Respondent, his agents, employees, successors, and all other persons in active concert or participation with him from discriminating because of sexual orientation;
3. That awards such damages as will fully compensate the Charging Party for their economic loss, pain, embarrassment and humiliation caused by the Respondent's unlawful discriminatory conduct;
4. That awards such additional relief as may be appropriate under Local Ordinance 201-99.

On Behalf of the Commission


Raymond A. Sexton, Executive Director

IV. FINAL INVESTIGATIVE REPORT

This determination of reasonable cause and charge of discrimination is supported by evidence gathered by LFUCHRC staff investigators and is documented in a Final Investigative Report (FIR). A copy will be provided to any aggrieved person and to any Respondent upon written request for such to:

Raymond A. Sexton, Executive Director
Lexington-Fayette Urban County Human Rights Commission
162 East Main Street, Suite 226
Lexington, Kentucky 40507-1315
(859) 252-4931
rsexton@lfuchrc.org

Charging Parties:

Aaron Baker, President
Gay & Lesbian Services Organization
389 Waller Avenue, Suite 100
Lexington, KY 40504

Respondent:

Blaine Adamson, Owner
Hands On Originals, Inc.
990 West New Circle Road, Suite 100
Lexington, KY 40511

Respondent's Representative:

Bryan Beauman, Senior Counsel
Alliance Defense Fund
P.O. Box 779
Paris, KY 40362

Commission Officials:

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LFUC Human Rights Commission
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Tami J. Reed, Commission Clerk
LFUC Human Rights Commission
162 E. Main St., Suite 226
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Tracey Burkett, Esq.
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162 East Main Street, Suite 226
Lexington, KY 40507

Certificate of Service

The Undersigned certifies that the above Determination of Probable Cause was served by mailing a true and correct copy to:

Charging Party:

Aaron Baker, President
Gay & Lesbian Services Organization
389 Waller Avenue, Suite 100
Lexington, KY 40504