

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF:</b>	)	
	)	
KELLIE E. PORTER,	)	
<b>Complainant,</b>	)	
	)	
<b>and</b>	)	<b>Charge No: 2001 CP 0652</b>
	)	<b>EEOC No: N/A</b>
TREASURE ISLAND FOODS, INC.,	)	<b>ALS No: 11593</b>
<b>Respondent.</b>	)	

**RECOMMENDED LIABILITY DETERMINATION**

On August 3, 2001, the Illinois Department of Human Rights (Department) filed a Complaint on behalf of Complainant, alleging that Respondent discriminated against her on the basis of her race when it denied her the full and equal enjoyment of its facilities in violation of the Illinois Human Rights Act, 775 ILCS 5/1-101 et.seq., (Act).

A public hearing was held on the allegations of the Complaint on Sept 4 and 5, 2002. This matter is ready for decision.

**CONTENTIONS OF THE PARTIES**

Complainant contends that Respondent unlawfully discriminated against her by refusing to allow her to park in its parking lot because of her race ( black) while other non-black customers were allowed to park in the parking lot.

Respondent denies that it unlawfully discriminated against Complainant, further contending that Complainant was not allowed to park in its parking lot because Respondent’s store policy only allows customers to park in its parking lot and Complainant was not a customer.

**FINDINGS OF FACT**

Those facts marked with an asterisk are facts to which the parties stipulated or facts that were admitted in the pleadings. The remaining facts were determined to have been proven by a preponderance of the evidence. Assertions made at the public hearing which are not addressed herein were determined to be unproven or immaterial to this decision.

1. Complainant’s race is black.\*
2. Respondent, Treasure Island Foods, Inc., ( Treasure Island) is a “Place of Public Accommodation” within the meaning of Section 5/5-101 of the Act.\*
3. Treasure Island is a retail seller of food items with several stores in the state of Illinois.\*

4. Steven Liapes (Liapes) is the Assistant Manager for the Treasure Island Foods store on Wells Street in Chicago.
5. Jerry Riordan (Riordan) is the Manager for the Treasure Island Foods store on Wells Street.
6. Natavarlal K. Patel (Patel) is a parking lot attendant for employer.
7. Patel's nationality is east Indian.
8. James Conner (Conner) began working for Respondent as a parking lot attendant five years ago; he worked as a parking lot attendant for 1 ½ years; he moved from that position to a position cleaning up the inside of the store; then he moved from that position to shipping and receiving, where he presently works.
9. On August 20, 2000, Complainant had plans to go to the beach in downtown Chicago with some friends.
10. On August 20, 2000, Complainant attended church service in Broadview, Illinois.
11. Church dismissed a few minutes after 1:00 p.m., afterwhich Complainant changed clothes at the church building and left around 1:15 p.m. to rush to meet her two female friends who were already having brunch at a westside Chicago restaurant.
12. To get to the restaurant, she drove onto the I-290 expressway to Milwaukee Avenue and arrived to the restaurant around 2:00 p.m.
13. When arriving to the restaurant, Complainant ordered something to eat and ate.
14. Complainant and her two friends, Ingrid Larkin and Kelly Starling, (women), left the restaurant around 2:30 p.m. They then drove for five minutes to yet another friend's house to convince her to come along. When the friend refused to accompany the women, they left to drive to the beach, but they first decided to stop at Treasure Island on 1639 N. Wells Street to purchase some snacks to take to the beach.
15. They first arrived at Treasure Island around 3:15 p.m.
16. Complainant was driving her own car with the other two women as passengers.
17. After entering the parking lot, the women noticed a sign that said the parking lot was full.
18. However, the women observed many empty parking spaces, contrary to the sign admonition, and approached the parking lot attendant to ask if they could park in the empty slots.
19. They drove up to the attendant booth to ask Patel, who was inside the parking attendant booth, if they could park in one of the empty parking spaces.
20. Complainant asked if there were any parking spaces available and Patel said "no."
21. Complainant pointed to a few open spaces and asked if she could park in one of them and Patel told her that they could not because parking was for Treasure Island customers only.
22. Complainant told Patel that the women were Treasure Island customers, but Patel would still not let them park.
23. Complainant then asked Patel if he thought they were not Treasure Island customers because they are black and Patel answered "yes."
24. The two friends were upset and agitated at Patel's answer and began protesting loudly; Complainant directed them to calm down and quiet down because she thought maybe Patel had not heard the question correctly and wanted to re-ask it.
25. Complainant repeated the question to Patel and again he answered "Yes."

26. While the women were talking to Patel, Complainant observed several white people drive into the parking lot and park their cars; some were walking away from the Treasure Island store after parking.
27. Neither Patel nor anyone else stopped the white people from parking in the parking lot.
28. Complainant then asked Patel for his name and indicated that she would be making a complaint to management. Patel gave her his last name but refused to give his first name.
29. The women then left and agreed to return after the beach trip to complain to the manager.
30. When the women returned around 6:00 p.m., none of the women asked permission to park; they parked and went into the store to speak to the manager.
31. Store personnel informed the women that the manager was not in and an employee directed them to the Assistant Manager, Liapes.
32. Liapes directed the women to the manager's station area.
33. While the women talked to the manager, Patel came into the manager's station to punch his time card.
34. In the presence of the women, Liapes asked Patel if he had told the women that they could not be customers because they are black and he replied "Yes."
35. Liapes repeated the question and again Patel answered "yes."
36. Liapes was first taking notes of the discussion on a piece of white paper.
37. Complainant asked Liapes to take a proper statement and Liapes took out a second sheet of legal-sized yellow paper and wrote a statement.
38. Liapes and the women made a hand-written contemporaneous statement on the yellow paper of this inquiry with Patel and the women.
39. The portion of the contemporaneous statement written by Liapes is as follows:

[First Page]

ATTN: INGRID LARKIN

C/O Mr. Patel – [telephone number] Complaint regarding racial discrimination –

Kellie Porter [telephone number]

Ingrid Larkin [telephone number]

Kelley Starling[telephone number]

Customer came into lot to park - Mr. Patel refused to let the ladies park, - the

ladies asked that since they were black – is that why Mr. Patel won't let them

park, Mr. Patel said YES-Twice [ the word "YES" is underlined twice]

"3:15 p.m. & second time 6:10 p.m. "

Steve Liapes took the report. Also Mr. Patel came into the manager's office to punch out and Steve Liapes asked Mr. Patel

[Second Page]

about the racial discrimination and that is when he said Yes – twice

[The portion of the contemporaneous statement written by one of the women is as follows:]

Mr. Liapes asked Mr. Patel if he answered yes when the ladies asked if he were stopping them because they are Black. He responded to Mr. Liapes with “YES.”

40. Complainant and Larkin initialed the first page to indicate they agreed with the information in the statement. Complainant, Larkin and Starling signed the back page on the left bottom corner and Liapes initialed the back page in the middle.
41. Complainant and her friends did not attempt to park in the parking lot around 1:30 p.m. on August 20, 2000.
42. Conner did not observe the Complainant and her friends at the parking lot around 1:30 p.m. on August 20, 2000.
43. Complainant missed two days of work to attend meetings with the Department and to meet with her attorney.
44. Complainant missed two days of work to attend the public hearing.
45. Complainant incurred expenses for parking and gas to attend the public hearing and proceedings at the Department.
46. Complainant was shocked and humiliated when she was told she would not be allowed to park because she is black.
47. Complainant was further humiliated when she watched white people freely enter and park in the parking lot without being refused entry.

### **CONCLUSIONS OF LAW**

1. The Illinois Human Rights Commission has jurisdiction over the parties to and the subject matter of the Complaint.
2. Respondent is a place of public accommodation as that term is defined under the Illinois Human Rights Act, 775 ILCS 5/5-101(A)(1).
3. Complainant is an individual aggrieved by denial of the full and equal enjoyment of the facilities and services of a place of public accommodation on the basis of race pursuant to the Illinois Human Rights Act at 775 ILCS 5/5-102 .
4. Complainant has proved, by a preponderance of the evidence, a prima facie case of unlawful discrimination based upon Respondent’s denial to Complainant of the full and equal enjoyment of its place of public accommodation.
5. Respondent articulated legitimate, non-discriminatory reasons for refusing Complainant entry into its parking lot.
6. Complainant established, by a preponderance of the evidence, that Respondent’s proffered reasons were a pretext for unlawful race discrimination.

### **DETERMINATION**

Complainant established, by a preponderance of the evidence, that she was unlawfully discriminated against when Respondent refused to allow her to park in its parking lot.

### **DISCUSSION**

The issue is whether Respondent violated the Act when it refused to allow Complainant and her friends to park in its parking lot. The Act provides that it is a civil rights violation

for an individual to be denied the full and equal enjoyment of the facilities and services of a place of public accommodation on the basis of race or national origin, Illinois Human Rights Act at 775 ILCS 5/1-103(Q).

A Complainant bears the burden of proving discrimination by a preponderance of the evidence in accordance with the Act at 775 ILCS 8A-102(I). That burden may be satisfied by direct evidence, such as utterance of racial slurs or comments in connection with the adverse action; or through indirect evidence pursuant to **McDonnell Douglas Corp. v. Green**, 411 U.S. 793, 93 S.Ct. 1817 (1973) and **Texas Dept. of Community Affairs v. Burdine**, 450 U.S. 248, 101 S. Ct. 1089 (1981), adopted by the Illinois Supreme Court in **Zaderaka v. Illinois Human Rights Commission**, 131 Ill.2d 172, 545 N.E.2d 674 (1989). Through indirect evidence, complainant must establish that (1) she is in a protected class, (2) she was denied full enjoyment of respondent's facilities and services, and (3) others not within her protected class were given full enjoyment of those facilities. The Commission invokes this burden shifting method in public accommodations as well as in employment cases. **Davis and Ben Schwartz Food Mart**, 23 Ill. HRC Rep. 2 (1986).

#### Complainant's Prima Facie Case by Direct Evidence

Direct evidence of discrimination requires evidence such as discriminatory remarks that demonstrate a linkage between the adverse act and the decision-maker's alleged discriminatory animosity. In this respect, temporal proximity of the subject remark to the adverse act is often crucial when establishing a prima facie case of discrimination based on direct evidence. **Robin v. Espo Engineering Corp**, 200 F.3d 1081, 1089 (7<sup>th</sup> Cir. 2000).

Here, Complainant uses the direct method of establishing a prima facie case of race discrimination. Complainant submitted credible testimony that, after Patel refused to allow them to park in the parking lot stating that only customers were allowed to park in the lot, she told him that the women were customers and asked him if he thought they could not possibly be Treasure Island customers "because we are black" and Mr. Patel answered affirmatively. Complainant, thinking Patel might not have heard her question correctly, repeated the question and Patel again answered "yes." Later, when Complainant returned to Treasure Island to complain to management, Patel answered "yes" twice when Liapes asked if he had refused to allow the women to park because of their race.

This response by Patel constitutes direct evidence of discrimination as it was uttered in temporal proximity to his refusal to allow the women to park in the parking lot and Complainant's race was specifically given by Patel as the reason the women were not allowed to park in the parking lot. Complainant has established a prima facie case of race discrimination by direct means.

As noted by the Commission in **Belha v. Modform, Inc.**, \_\_ Ill HRC Rep. \_\_, (1987CF2953, January 31, 1995), if Complainant has established a prima facie case

through the direct method, the Respondent must articulate a legitimate reason for its adverse action. This is required because, although the discriminatory remark constitutes direct evidence of discrimination because it tends to directly show the motivation of the declarant, there remains a possibility that the declarant's adverse action was motivated by another reason rather than the prohibited characteristic. **Belha** at pgs.9-11. 9-11. 9,10.

#### Respondent's articulation

Respondent's articulation is two-fold. Respondent first asserts that Patel's affirmative answer was invalid because Patel neither understood Complainant's questions nor did he understand the similar questions put to him by Liapes in the presence of the women.

The second articulation is that Patel did not allow the women to park because he knew they were not customers. This knowledge was based on Patel's alleged observance that the women had been to the parking lot earlier and had offered him \$10.00 to park in the lot.

#### Complainant's Showing of Pretext

Following Respondent's articulations, Complainant must establish that Respondent's proffered reasons are a pretext for race discrimination. A Complainant may establish pretext either directly, by offering evidence that a discriminatory reason more likely motivated the employer's actions, or indirectly, by showing that the employer's explanations are not worthy of belief. **Burnham City Hospital v. Illinois Human Rights Commission**, 126 Ill. App.3d 999, (4<sup>th</sup> Dst. 1984). A Complainant may demonstrate that the proffered reason has no basis in fact; the proffered reason did not actually motivate the decision; or the proffered reason was insufficient to motivate the decision. **Grohs v. Gold Bond Products**, 859 f.2d 1283 (7<sup>th</sup> Cir. 1988).

The evidence establishes a direct showing of pretext. There is no dispute that, in refusing Complainant parking privileges, Patel told the women that they could not possibly be customers because they are black. Complainant and Liapes both submitted credible testimony to this effect. This statement is conclusive proof that Respondent denied Complainant the use of its parking facilities because of her race.

However, the evidence further establishes pretext by the indirect means as the evidence does not support either of Respondent's articulations. When the women returned at 6:00 p.m. to complain to management, Patel was present in the parking lot. When the women entered the store and spoke to Liapes, Patel came into the area to punch out his time card as it was near the end of his shift. At that time, Liapes questioned Patel about the incident in front of the women.

Liapes wrote a contemporaneous statement during the time of the discussion with the women and Liapes' own statement reflects that Patel admitted to him twice that he had made the racial statement to the women. Liapes' statement is void of any notes that indicate Liapes believed Patel misunderstood the questions. Additionally, there is no

indication in Liapes' statement that Patel expressed that he believed the women to have been the same women who had arrived earlier in the day to park and were turned away after having offered him \$10.00. Complainant's testimony of the incident is also void of any statements attributed to Liapes or Patel accusing the women of having been to the parking lot earlier. Patel's testimony, too, is void of any indication that he reported to Liapes during the meeting with the women that he had refused the women entry because he believed they were not customers due to their earlier attempted entry.

What is also telling is that Patel himself offered no testimony that — when the women purportedly returned for the second time at 3:15 p.m. — he accused them of having been there earlier and of having offered to bribe him with money. If Patel had recognized the women as having been there just 1-2 hours earlier and was refusing them entrance based on that earlier attempt, it is expected that he would have confronted them with this information as his reason for denying them entrance.

Further undermining Respondent's articulation is the testimony of Connor. I find the testimony of Connor totally unbelievable and obviously fabricated. His demeanor was very nervous, his speech extremely low and inaudible at times, and he failed to maintain eye contact with anyone — looking down or around much of the time. Connor's testimony that he was sitting on a stool in the parking lot just five feet away from Patel on August 20, 2000 at 1:00 p.m., when he heard the women say they were from out of town and when he observed the women offer Patel \$10.00 to park, is out of sync with Patel's testimony. Patel's testimony failed to mention Connor as being present or within earshot at the time the women purportedly offered him \$10.00 to park. Also, Patel's testimony did not mention the women as having said they were from out of town. It is further significant that Liapes' contemporaneous statement shows no indication that Patel identified Connor as present at the scene as a person who could corroborate his reason for having denied the women admission to the parking lot, nor does Liapes' statement indicate that Patel reported to him his belief that the women had attempted to park earlier.

Nothing in the record supports that Patel did not understand the questions put to him by Complainant and her friends or the same questions put forth to him by Liapes. During the hearing, although Patel had a heavy accent, it was apparent that he understood English sufficiently and that he was not shy about letting me or counsel know when he did not understand the meaning of a particular query or the way in which it was phrased. Riordan's testimony confirms my impression that Patel would not hesitate to ask for clarification if he was asked something he did not understand. Riordan testified that, as Patel's manager, he generally had to go over directions with Patel a couple of times; however, Patel would not hesitate to tell him if Patel did not understand.

On direct examination by Respondent's counsel, Riordan was asked this question and gave this answer:

Q: Have you had difficulty communicat[ing] with Mr. Patel prior to that?

A: Well, you have to go over things with him a couple of times, and I am surprised that he didn't say anything to Mr. Liapes because to me he would say

well, I don't quite understand. Give me that again, you know, so he can be clear....

Complainant testified credibly that the discriminatory incident occurred on Sunday, August 20, 2002. She attended church in Broadview, Illinois that day, which dismissed a few minutes after 1:00 p.m., after which she changed clothes at church and left around 1:15 p.m. to rush to meet her friends who were already having brunch at a westside restaurant. To get to the restaurant, she drove onto the I-290 expressway to Milwaukee Avenue and did not arrive until around 2:00 p.m. Complainant ordered something to eat, ate and she and her friends left around 2:30 p.m. They then drove for five minutes to yet another friend's house to convince her to come along. When the friend refused to accompany the women, they left to drive to the beach, but they first decided to stop at Treasure Island to purchase snacks to take to the beach. The first time they arrived at Treasure Island was around 3:15 p.m.

After entering the parking lot, the women noticed a sign that said the parking lot was full. Because they observed many empty parking spaces, contrary to the sign admonition, the women approached the parking lot attendant, Patel, who was inside the parking attendant booth, to inquire if they could park in one of the empty parking spaces.

Complainant asked if there were any parking spaces available and Patel said "no." Complainant pointed to a few open spots and asked if she could park in one of them and Patel told them they could not because parking was for Treasure Island customers only. Complainant then told Patel that the women were Treasure Island customers, but Patel still refused to allow them to park.

Complainant then asked Patel if he thought they were not Treasure Island customers because they are black and Patel answered "yes." Complainant repeated the question to Patel and again he answered "Yes." While Complainant and her friends were talking to Patel, Complainant observed several white people drive into the parking lot, park their car, and either walk into the store or walk away from the store. Neither Patel nor anyone else stopped any white people from parking in the parking lot, including the ones that were walking away from the parking lot after parking. Complainant then asked Patel for his name. Patel gave her his last name but refused to give his first name. The women informed him that they would return to make a complaint against him with the management.

The women then left and agreed to return after the beach trip to complain to the manager. When the group returned around 6:00 p.m., they did not ask permission to park; they parked and went into the store to speak to the manager. Store personnel informed them that the manager was not in and an employee directed them to the assistant manager, Liapes. In the presence of the women, Liapes asked Patel if he had told the women that they could not be customers because they are black and Patel replied "Yes." Liapes repeated the question and again Patel said "Yes." Liapes made a hand-written contemporaneous statement that reflected this inquiry.

The record supports that Patel correctly understood the questions and honestly answered his intention. The record further supports that the articulation that Patel believed the women had visited the parking lot earlier and had tried to bribe Patel is a fabricated account in an attempt to cover up obvious race discrimination.

Complainant has proven, by preponderance of the evidence, that Respondent's articulations – that Patel repeatedly did not understand the question and that Patel denied parking to the women because he believed they had tried to park earlier as non-customers – have no basis in fact and are unworthy of belief.

### **DAMAGES**

The purpose of the damage award is to make the Complainant whole. When the Complainant has been a victim of unlawful discrimination under the Act, he should be placed in the position he would have been but for the discrimination. **Clark v. Human Rights Commission**, 141 Ill. App. 3d178, 490 N.E.2d 29 (1st Dist. 1986).

#### Emotional Damages

Complainant requests a total of \$10,000.00 in emotional damages. The presumption under the Act is that recovery of all pecuniary losses will fully compensate an aggrieved party for his losses. **Smith v. Cook County Sheriff's Office**, 19 Ill.HRC Rep. 131,145 (1985). However, the Commission will award damages beyond pecuniary loss if it is absolutely clear from the record that the recovery of pecuniary loss will not adequately compensate the Complainant for his actual damages. **Kincaid v. Village of Bellwood, Bd. Of Fire and Police Commissioners**, 35 Ill. HRC Rep. 172, 182 (1987). Specifically, the Commission has granted emotional damages in public accommodation cases, where there is often little financial loss, when it is absolutely clear from the record that the recovery of pecuniary loss will not adequately compensate the Complainant for actual damages. **G.S. and Baksh**, \_\_ Ill HRC Rep. \_\_, (1987CP0113, July 8, 1994). The amount awarded must be appropriate in light of the nature and duration of the suffering experienced by the complainant. **Smith**, *supra*, at p.13.

Complainant testified credibly that she was shocked and humiliated when she was not allowed to park and the shock and humiliation was aggravated when she observed white people being allowed to park at the same time she was refused parking. Patel's demeanor further distressed complainant because Patel was yelling, shouting, acting in an intimidating manner and otherwise making a scene. Complainant often still thinks about the incident and cries and feels stressed when she does. Although Complainant sought no professional medical help, Complainant spoke to her pastor about the incident. The Commission accepts a Complainant's own testimony as a sufficient basis for awarding emotional distress damages. **Nichol and Boyd A. Jerrell & Co., Inc.** 14 Ill HRC rep. 149 (1984).

In assessing an appropriate damages award for emotional distress in this case, I find **Marcus Blakemore and Glen's Restaurant**, 35 Ill.HRC Rep. 154 (1987) and **Wiley**

**and City of Chicago Dept. of Police**, \_\_ Ill HRC Rep. \_\_ (1991CA0167, May 5, 1997), comparable cases. In **Marcus**, although complainant did not seek medical treatment for emotional suffering, \$5,000.00 was awarded to complainant when respondent refused to serve him a cup of soup, which was served to a white customer instead, then ordered him to leave, and caused him to be arrested by police. **Marcus** is further analogous in that, it too, was a one-time event with an absence of racial slurs or on-going discriminatory treatment, which caused emotional distress.

In **Wiley**, the Commission approved an award of \$10,000.00 in emotional damages where the complainant had a severe negative change in behavior after his employer refused to allow him to return to work as a police officer. The level of complainant's distress caused complainant to stop his exercise program, stop associating with friends, withdraw from his wife and become impotent.

Considering the blatant discriminatory conduct of Respondent and the level of distress felt by Complainant due to the discriminatory treatment, Complainant is entitled to slightly more than the \$5,000.00 awarded in the **Marcus** case, but somewhat less than that awarded in the **Wiley** case. Therefore, I find \$6,500.00 a more reasonable amount to compensate Complainant for her emotional injuries.

#### Pecuniary Losses

##### Lost Income

Complainant requests \$523.00 for two days in lost income. Complainant missed ½ day to go to the Department to file the charge, ½ day to meet with her attorney about the Department Charge and one-day to attend a fact-finding conference at the Department. Complainant further lost \$1,200.00 in salary in order to attend the 2-day public hearing. Complainant is entitled to \$1,723.00 in lost wages.

##### Parking Expenses

Complaint requests \$120.00 for parking expenses for parking five separate times for attendance at Department conferences and the public hearing at the Commission. Complainant testified that she spent between \$19.00-\$22.00 in daily parking in downtown Chicago. I find this expense reasonable and necessary for the litigation of this Complaint. Complainant is entitled to expenses for five days of parking to attend Department conferences and the public hearing at \$21.00 /day for \$105.00.

##### Transportation

Complainants requests \$536.00 for transportation expenses (33.5 cent per mile x 1600 miles) for driving 1600 round-trip miles from New Jersey — where Complainant is now working — to Chicago to attend the public hearing. I find these expenses necessary and reasonable for the litigation of this matter.

### Interest

Complainant is entitled to interest on all amounts awarded in order to make her whole.

### Other Relief

Complainant further requests that Respondent be ordered to: cease and desist discriminating in its parking lot on the basis of race; post notices within the store and parking facility noticing customers that Respondent complies with the Act; and provide race discrimination training for its employees so that this type of conduct never happens again.

Section 5/8A-104 provides for the kind of relief and penalties the administrative law judge may recommend upon a finding of a civil rights violation pursuant to the Act. This provision does not provide for discrimination training to employees as a recommended damages award; however, my experience adjudicating this case suggests that this would be a helpful undertaking and Respondent may want to consider it.

Posting of notices as a potential remedy is provided for under the Act; however, a cease and desist order should be sufficient to discourage subsequent racial discrimination and I am not convinced that posting of notices in this case would be helpful.

### **RECOMMENDATION**

Accordingly, it is recommended that the Complaint in this matter be sustained on the race discrimination claim and that Complainant be awarded the following relief:

- A. Respondent pay to Complainant lost income in the amount of \$1,723.00.
- B. Respondent pay to Complainant \$6,500.00 in emotional damages.
- C. Respondent pay to Complainant \$536.00 in transportation expenses.;
- D. Respondent pay to Complainant \$105.00 in parking fees;
- E. Respondent pay to Complainant prejudgment interest on the amounts in A, B, C and D to be calculated as set forth at 56 Ill.Admin.Code, Section 5300.1145;
- F. Respondent extend to Complainant the full and equal enjoyment of its facilities, privileges and services.
- G. Respondent cease and desist from discrimination in its parking lot on the basis of race;
- H. Respondent pay to Complainant the reasonable attorney's fees and costs incurred in the prosecution of this matter, that amount to be determined after review of a motion and detailed affidavit meeting the standards set forth in **Clark and Champaign National Bank**, 4 Ill. HRC Rep. 193 (1982), said motion and affidavit to be filed within 21 days after the service of the Recommended Liability Determination; failure to submit such a motion will be seen as a waiver of attorney's fees and costs;

- I. If Respondent contests the amount of requested attorney's fees, it must file a written response to Complainant's motion within 21 days of the service of said motion; failure to do so will be taken as evidence that Respondent does not contest the amount of such fees;
- J. The recommended relief in paragraphs A through E is stayed pending resolution of the issue of attorney's fees and issuance of a final Commission order.

**HUMAN RIGHTS COMMISSION**

**ENTERED: February 7, 2003**

By: \_\_\_\_\_  
**SABRINA M. PATCH**  
**Administrative Law Judge**  
**Administrative Law Section**