

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2013CP0320
)	EEOC NO.: N/A
JOHN ZAHARAKIS)	ALS NO.: 13-0130
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang, and Nabi R. Fakroddin presiding, upon John Zaharakis's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")¹ of Charge No. 2013CP0320 and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

DISCUSSION

On August 2, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that Daryl A. Saylor ("Saylor"), d/b/a Chick-fil-A at Schaumburg FSU (#02730), as the operator of a place of public accommodation, published communications which the operator knew had the effect of denying the Petitioner a place of public accommodation free from being unwelcome, objectionable or unacceptable because of his sexual orientation, marital status, and religion of Section 2-102(B) of the Illinois Human Rights Act ("Act"). On January 8, 2013, the Respondent dismissed the Petitioner's charge for lack of substantial evidence. The Petitioner filed a timely request.

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence

¹ In a request for review proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Illinois Department of Human Rights's action shall be referred to as the "Petitioner."

is such that a reasonable mind would find the evidence sufficient to support a conclusion. In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

There is no substantial evidence that Saylor subjected the Petitioner to unlawful discrimination based on his sexual orientation, marital status, or religion. The Petitioner alleges that Saylor violated Section 5-102 (B) of the Act which states that it is a civil rights violation for any person on the basis of unlawful discrimination to:

“[d]irectly or indirectly, as the operator of a place of public accommodation, publish, circulate, display or mail any written communication...which the operator knows is to the effect that any of the facilities of the place of public accommodation will be denied to any person or that any person is unwelcome, objectionable or unacceptable because of unlawful discrimination.”

In the Petitioner’s case, Saylor’s actions did not rise to the level of unlawful discrimination. The indirect publications of Cathy which the Petitioner alleged amounted to discrimination, were not related in any way to Saylor’s franchise location and did not influence the day to day operations of his business. Furthermore, there was no evidence that Saylor had knowledge of the intent of Cathy’s statement or how the statement made the Petitioner feel.

As to the Petitioner’s argument that Saylor’s establishment and Cathy’s statements are connected because they are involved in a joint venture, the evidence showed that while Chick-fil-A dictates substantial aspects of franchise operations, none of the corporate policies involved their treatment of patrons, other than those requiring respectful conduct and good service. Most of the policies offered by the Petitioner relate to the procurement of ingredients, safety guidelines or handling food, and maintaining cleanliness and observance of all health codes. Additionally, the Operator Agreement between Saylor and Chick-fil-A explicitly states that “[n]othing herein shall be deemed to make the Operator an agent, partner, legal representative, joint venture or employee with or of Chick-fil-A.” Therefore, Saylor and Chick-fil-A cannot be found to have been engaged in a joint venture, and the Petitioner’s argument on this subject is not persuasive.

In summary, the Petitioner failed to establish any connection between the personal statements of Cathy and the Saylor’s place of public accommodation. The Petitioner alleged that he felt unwelcome, objectionable, or unacceptable as a result of the statements, but fails to show how Saylor directly or indirectly published a communication which had that effect. Saylor denied changing any of its policies or practices after Cathy’s statements were made, and the Petitioner has not offered any evidence to rebut that assertion. The company’s guidelines for how its franchises were

to operate were not reflective of Cathy's statements, and did not contain any language denoting discriminating practices. The evidence showed that Cathy's statements were not rules for each Chick-fil-A franchise to implement, but rather the personal opinions of the Chief Operating Officer.

Accordingly, the Petitioner has not presented any substantial evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The dismissal of the Petitioner's charge is hereby **SUSTAINED**.
2. This is a final Order. A Final Order may be appealed to the Illinois Appellate Court by filing a Petition for Review, naming the Illinois Department of Human Rights, the Illinois Human Rights Commission, and Daryl A. Saylor, d/b/a Chick-fil-A at Schaumburg FSU (#02730), as named party respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Final Order.

STATE OF ILLINOIS)
) **Entered this 20th day of December 2018**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakroddin