



City of Chicago  
**COMMISSION ON HUMAN RELATIONS**  
740 N. Sedgwick, 3rd Floor, Chicago, IL 60654  
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

**IN THE MATTER OF:**

George Blakemore

**Complainant,**

v.

Dublin Bar & Grill, Inc. d/b/a Dublin's Pub

**Respondent.**

**Case No.:** 07-P-15

**Date Mailed:** June 4, 2009

**TO:**

Matthew P. Weems  
Law Office of Matthew P. Weems  
1652 W. Ogden Ave.  
Chicago, IL 60612

Jennifer M. Hill  
Brustin and Lunblad, Ltd.  
100 W. Monroe St., Suite 500  
Chicago, IL 60603

**FINAL ORDER**

YOU ARE HEREBY NOTIFIED that, on May 20, 2009, the Chicago Commission on Human Relations issued a ruling in favor of Respondent in the above-captioned matter. The findings of fact and specific terms of the ruling are enclosed. Based on the ruling, this case is hereby **DISMISSED**.

Pursuant to Commission Regulations 100(15) and 250.150, Complainant may seek review of this Order by filing a petition for a common law *writ of certiorari* with the Chancery Division of the Circuit Court of Cook County according to applicable law.

CHICAGO COMMISSION ON HUMAN RELATIONS  
Dana V. Starks, Chair and Commissioner



**City of Chicago**  
**COMMISSION ON HUMAN RELATIONS**  
740 N. Sedgwick, 3rd Floor, Chicago, IL 60654  
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

IN THE MATTER OF:

George Blakemore  
**Complainant,**  
v.

Dublin Bar & Grill, Inc. d/b/a Dublin's Pub  
**Respondent.**

**Case No.:** 07-P-15

**Date of Ruling:** May 20, 2009

## FINAL RULING ON LIABILITY

### I. PROCEDURAL HISTORY

On February 28, 2007, Complainant George Blakemore filed a Complaint against Respondent Dublin Bar and Grill, Inc. d/b/a/ Dublin's Pub alleging that, on December 12, 2006, Respondent discriminated against Complainant because of his race when it refused to serve him a drink and required him to leave Dublin's Pub. Respondent filed a Verified Response on May 3, 2007, and on June 12, 2008, the Commission entered an order finding substantial evidence of the alleged violation. An administrative hearing was held on January 23, 2009, before hearing officer Martin H. Malin. On March 20, 2009, the hearing officer issued his recommendation that the Commission find no liability. Complainant filed objections to this recommended ruling on April 20, 2009.<sup>1</sup>

### II. FINDINGS OF FACT

1. The following facts are not in dispute: On December 12, 2006, Complainant entered Respondent's bar and ordered a drink. Respondent refused to serve Complainant and asked him to leave the premises.
2. Complainant testified that on the date in question, he entered Respondent's bar and was told he could not be served because he did not comply with Respondent's dress code. (Tr. 25). Complainant testified that he was in the bar for three to five minutes. He engaged the hostess, who refused to seat him because of his attire. He complained that there were white patrons who were similarly dressed and the hostess offered him a drink to go, which he refused. (Tr. 28).
3. Complainant testified that during the time he was in the bar he observed white customers who were loud and boisterous and appeared to be intoxicated and seemed "dirty from a day's work." (Tr. 25-26). He saw no other black patrons in the establishment (Tr. 29). He saw several people going back and forth to the restroom, drinking beer and being loud and carousing. (Tr. 38).
4. Complainant testified that the incident occurred in the afternoon but could not recall the time. (Tr. 32). He could not remember where he was prior to going to the bar but surmised that he

---

<sup>1</sup>These objections were due on April 17, 2009, pursuant to the hearing officer's instruction in the Recommended Decision as well as Reg. 240.610(b), which starts the 28 day objection period from the date of mailing of the recommended ruling. However, because the tardiness amounted to only one business day and has not delayed the Board ruling process or otherwise prejudiced Complainant, the Commission has considered the objections.

probably came from his residence. (Tr. 33). Complainant testified that he went to Respondent's bar because it was there. (Tr. 34).

5. Complainant testified that when he was denied service because of a dress code and then observed white patrons similarly attired who were served, he concluded that he was denied service because of his race. (Tr. 36). Complainant testified that after leaving Respondent's place of business, he did not go to another bar (Tr. 35), but over a period of about thirty minutes he observed through the window in Respondent's establishment, walked away for a brief period of time, and then returned and observed some more. (Tr. 42-43). Through the window, he observed patrons who appeared to be drunk, loud, and cursing. (Tr. 39).
6. Complainant denied being intoxicated and maintained that he had not had any alcoholic drinks prior to coming to Respondent's facility. (Tr. 30). He testified that on another occasion, he went to Respondent's bar and was served a drink. (Tr. 46). Complainant testified that as a result of the denial of service, he felt humiliated, lost sleep, and had flashbacks. (Tr. 52-53).
7. Bitu Buenrostro testified that at the time of the incident, she was the hostess/manager of the bar (Tr. 84). She arrived at the bar around 4:30 p.m. (Tr. 85). Shortly thereafter, Complainant walked in. According to Ms. Buenrostro, Complainant paced back and forth. He appeared disoriented and his eyes were not completely focused. Ms. Buenrostro told the bartender not to serve Complainant. Complainant asked for a shot of whiskey to go and the bartender told him that the bar did not have the license to sell alcohol to go. Complainant then appealed to Ms. Buenrostro, who told him she could give him a cup of water to go but not alcohol. Ms. Buenrostro testified that Complainant then began to make a scene and she told him that if he did not leave, she would call the police. Complainant then left. (Tr. 86-87).
8. Ms. Buenrostro described Complainant as very disoriented, walking in a funny manner, pacing and looking around and smelling of alcohol. (Tr. 89-90). She testified that Complainant came inside and went all the way back to the bar. The bartender asked him if he wanted something to drink. Complainant then walked to the front and the bartender asked him again if he wanted something to drink, and Complainant started to walk toward the kitchen. At that point, Ms. Buenrostro intervened. (Tr. 92).
9. Ms. Buenrostro testified that the bartender asked Complainant to leave and Complainant asked for the manager, and the bartender directed Complainant to her. According to Ms. Buenrostro, Complainant asked if it was the way he was dressed and she replied that it was not. Complainant then asked for a shot of whiskey to go and she replied that the bar did not have the license to sell alcohol to go and offered him a cup of water. (Tr. 145).
10. Ms. Buenrostro distinguished between "alcoholics" and "drunks." She maintained that many patrons come every day to drink but they do not act drunk. Only patrons who act drunk are asked to leave. (Tr. 173).
11. Ms. Buenrostro testified that Complainant was one of four patrons whom she asked to leave on December 12 because they were "overserved." (Tr. 168). In keeping with her standard practice, she told the owner the following morning that she asked four patrons to leave. (Tr. 168-69). She had no further discussion of the incident with the owner until about six months before the hearing when, over tea, the owner asked her if she recalled the incident. (Tr. 184-86). She was not involved in the drafting of Respondent's Verified Response to the Complaint.

12. There is a clear conflict between the version of the events of December 12, 2006, related by Complainant and the version of events related by Ms. Buenrostro. The hearing officer had concerns with the credibility to both witnesses.<sup>2</sup> Respondent's Verified Response to the Complaint related that Complainant was denied service because he appeared to be intoxicated. However, Ms. Buenrostro testified that, apart from a summary report to the owner the morning after the incident that she had four customers who were asked to leave because they were over-served, she had no further discussion with the owner about the matter until five or six months prior to the hearing. She was not involved in preparation of the Verified Response.
13. Ms. Buenrostro's testimony leaves open the obvious question – from where did Respondent get the information to include in its Verified Response if not from Ms. Buenrostro, who was the manager on duty and who made the decision not to serve Complainant? Complainant infers that Respondent fabricated its Verified Response and that Ms. Buenrostro, in turn, fabricated her testimony to conform to Respondent's Verified Response. This is a huge leap rather than a logical inference. Moreover, it is not the only inference that could be drawn from the facts. However, the gap in the evidentiary record does provide cause to question Ms. Buenrostro's credibility.
14. On the other hand, much of Complainant's testimony is highly implausible. Complainant testified that Respondent refused to seat him but offered to serve him a drink to go. The sale of alcoholic beverages to go was outside the scope of Respondent's liquor license. The hearing officer found it unlikely that Respondent would jeopardize its liquor license by offering Complainant a drink to go. Even if Respondent decided not to serve Complainant because of his race, there would be no reason for Respondent to go further and offer a drink to go, thereby jeopardizing its license; rather, Respondent would most likely just deny Complainant service. Ms. Buenrostro's testimony that Complainant asked for a drink to go and she offered him water instead is far more plausible.
15. Complainant was unable to provide many details of the day in question. He could not say where he came from before going to Respondent's bar, or why he went to Respondent's bar other than because it was there. He was unable to give the time of day that he went to the bar. Despite being unable to recall basic facts about himself, he was able to give details about other patrons at the bar, including their attire and behavior. Such selectivity in recall calls Complainant's credibility into question.
16. Complainant testified that after being denied service at Respondent's bar, he did not go to another area bar to get a drink. He maintained that he was so devastated by the discrimination he experienced, discrimination that he inferred from respondent's denial of service to him on the ground that he did not comply with Respondent's dress code while similarly-attired white patrons were served, that he was unable to seek an alternate source of refreshment. Yet, Complainant's claim that he was emotionally devastated is inconsistent with his actions following his departure from the bar. He continued to observe Respondent's establishment from the street through the window. Moreover, he operated strategically, observing only for a few

---

<sup>2</sup>Respondent also called Todd Frampton, a bartender, as a witness. However, Mr. Frampton did not testify to being present during the incident on December 12, 2006, and the hearing officer found his testimony largely irrelevant and of no probative value with respect to resolving the conflicting accounts of the events of December 12.

minutes, then walking away and returning to observe for a few more minutes. He did this to minimize the chance that Respondent would notice him and kept this up for a half hour. Such strategic behavior gathering evidence to support a discrimination claim is inconsistent with Complainant's claim that he was emotionally devastated.

17. Finally, Complainant testified that through the window he observed Respondent serve numerous white patrons who were drunk. He described them as loud, boisterous, and cursing. Yet, Complainant offered no explanation as to how he could hear them cursing from outside the bar, looking in through the window. Here too, Complainant's testimony is implausible.
18. Although the hearing officer had concerns with Ms. Buenrostro's credibility, his concerns with Complainant's credibility were greater. The hearing officer characterized Ms. Buenrostro's testimony as direct, to the point, and plausible. He found her version of events that she intervened when Complainant started to move toward the kitchen, that Complainant appeared to be unsteady and disoriented, that she instructed the bartender not to serve Complainant, that when the bartender refused Complainant service, Complainant asked for a drink to go and that both the bartender and she denied the request, offering him water instead, to be much more plausible than Complainant's version of the events. He found that Ms. Buenrostro's testimony is more likely than Complainant's testimony to reflect accurately the events of December 12, 2006.

### III. CONCLUSIONS OF LAW

1. Section 2-160-070 of the Chicago Human Rights Ordinance (CHRO) prohibits discrimination in public accommodations on the basis of race and other protected classes. Respondent is a covered public accommodation under Section 2-160-070 because it is a business establishment that sells, provides, or offers to the general public products and services. CHRO § 2-160-020(i).
2. Complainant has established a *prima facie* case of discrimination under the indirect method of proof which may be used when direct evidence of discriminatory intent is lacking. A complainant establishes a *prima facie* case of public accommodation discrimination by proving that he is a member of a protected class, sought to use the public accommodation at a time that it was open to the public, met all objective non-discriminatory qualifications for use of the public accommodation, and was denied full use of the public accommodation. See, e.g., *Pryor and Boney v. Echeveria*, CCHR No. 93-PA-62/83 (Oct. 19, 1994); *Sohn and Cohen v. Costello and Horwich*, CCHR No. 91-PA-0019 (Oct. 20, 1993). More generally, Complainant's burden is to establish "by a preponderance of the evidence that sufficient facts exist to imply discrimination in the absence of a credible, nondiscriminatory explanation for the Respondents' actions." *Sohn and Cohen, supra*.
3. Complainant proved, by a preponderance of the evidence, that he is a member of a protected class (African-American); that on December 12, 2006, he sought access to Respondent's facilities, products, and services—specifically that he sought to order a drink—that he met all objective nondiscriminatory qualifications as there was no dress code and no apparent other qualifications in that the bar welcomed all types of patrons; and that he was denied service by Respondent and told to leave or the police would be called. Complainant has proven sufficient facts to imply discrimination in the absence of a credible, nondiscriminatory explanation for the treatment afforded Complainant.

4. Once Complainant has established a *prima facie* case, the burden shifts to Respondent to articulate a legitimate nondiscriminatory reason for the denial of use of the public accommodation. *Sohn and Cohen, supra*. Complainant then has the burden to prove that Respondent's reason is a pretext for discrimination. *Id.* Respondent has articulated a legitimate nondiscriminatory reason for its denial of service, namely that Complainant appeared to be intoxicated. Accordingly, Respondent has met its burden and the burden shifts back to Complainant to prove that Respondent's articulated reason was a pretext for discrimination.
5. Whether Complainant has carried his burden of proving pretext turns entirely on the relative credibility of his testimony and the testimony of Ms. Bitá Buenrostro. The hearing officer found Ms. Buenrostro's testimony to be more credible than Complainant's. As further explained below, the Board of Commissioners accepts and adopts this credibility finding and determination, as it is not contrary to the evidence presented at the hearing.
6. Complainant has not met his burden of proving pretext by a preponderance of the evidence, nor has he in any other respect established that Respondent discriminated against him because of his race when it refused to serve him a drink and required him to leave the premises of Dublin's Pub on December 12, 2006.

#### IV. DISCUSSION

Section 2-120-510(1), Chicago Municipal Code, as well as Commission Regulation 240.620(a) require the Commission to adopt the recommended findings of a hearing officer if they are not contrary to the evidence presenting at the hearing. In *Stovall v. Metroplex et al.*, CCHR No. 94-H-87 (Oct. 16, 1996), the Board of Commissioners declared that it will not re-weigh a hearing officer's recommendation as to witness credibility unless it is against the manifest weight of the evidence. *Wiles v. The Woodlawn Org. and McNeal*, CCHR No. 96-H-1 (Mar. 17, 1999), further explained that the Board of Commissioners may not overturn a hearing officer's factual findings unless they are "contrary to the evidence presented at hearing" and so will not re-weigh credibility or set aside proposed findings of fact merely because another interpretation is plausible. One of the key functions of a hearing officer is to assess the credibility of witness testimony and in doing so, the hearing officer may consider among other things the demeanor and bias of a witness. *McGee v. Cichon*, CCHR No. 96-H-26 (Dec. 30, 1997); *Poole v. Perry & Assoc.*, CCHR No. 02-E-161 (Feb. 15, 2006).

In his Objection to Recommended Decision, Complainant argues for a credibility finding in his favor for the following reasons:

1. *That the hearing officer was inconsistent in his determination as to whether Complainant went to another bar after leaving Dublin's Pub.*

The Commission agrees that Complainant stated an reaffirmed that he did not go to another bar after he left Dublin's Pub. (Tr. 35), and so has adjusted Finding of Fact #5 above. It appears the hearing officer intended but failed to include the word "not" when he initially wrote, "Complainant testified that after leaving Respondent's place of business he did try to get a drink at another bar in the area because he was devastated by the denial of service. (Tr. 35). Instead, over a period of about thirty minutes, he observed through the window...." This point is not material to the hearing officer's or the Commission's assessment of relative credibility, however.

2. *That Complainant's testimony was not impeached on the basis of having testified he was offered an alcoholic drink to go, in that he testified only that Respondents attempted to serve him a "drink" to go (Tr. 35), which was not inconsistent with Ms. Buenrostro's testimony that she told Complainant she could give him water to go but no alcohol." (Tr. 87)*

This argument fails to recognize the material differences between the testimony of Complainant and that of Ms. Buenrostro on this point. Complainant's direct testimony (by narrative as he was not at the point represented by counsel) at the administrative hearing is sparse on detail and appears selective as to context, but it seems to maintain that it was *Ms. Buenrostro* who initiated the offer of a drink to go. Complainant had made no mention in his Complaint concerning any drink to go; there he only stated that the hostess instructed the bartender not to serve Complainant because "I did not fit their dress code." (Compl. Par. 2). Testimony about a drink to go comes into Complainant's direct testimony at the hearing as follows:

....So I was told that I didn't have--fit their dress code, which I didn't see any signs up stating that they had dress code. And that these constructions workers was dirty from a day's work. Some of them had their construction helmets on.

And I was told that I could get one, a drink to go. And I said no, I want to be seated. I want to be seated. And I was told that they wouldn't serve me.... (Tr. 26)

The subject of a drink to go comes up once again in Complainant's direct testimony:

I tried to get a drink. And that's when this nightmare came up telling me that I couldn't--so I asked why they say, because you are not dressed in a certain way, a dress code. And I said well, these white guys over there they are construction workers, I'm dressed similarly situated and I can't see any difference. I can't see any difference at all. So this--then she told--she gave me a drink to go. Gave me a drink to go. I said no, I want to have a seat. She said you can't have a seat, you have to leave. And I left. (Tr. 28)

Again on cross examination, Complainant mentioned being offered a drink to go:

Q. After the hostess allegedly told you there was a dress code, did you leave the bar?

A. No. Because she was told--she was telling me, she said give me a drink to go. She was telling give him a drink to go.

Q. So, Mr. Blakemore, you were offered a drink then?

A. I was not allowed to--

Q. Mr. Blakemore, the question is were you offered a drink?

A. I was not offered a drink in the manner that other customers were. Because I was not allowed to be seated. According to the ordinance, you have to be treated equally. Equally.

Q. Mr. Blakemore, were you offered a drink?

A. I was offered a drink.

Q. Did you accept that drink?

A. No. Because they give it to him—it was different. They were saying give it to him to go, like a take a drink and leave. Take a drink and leave. She would not let me sit down. I was discriminated against. (Tr. 36-37)

The hearing officer did infer that Complainant's testimony was that he was offered an alcoholic drink to take with him rather than being allowed to stay and drink in the bar, and that is part of why the hearing officer found Complainant's version of this part of the incident to be less plausible than Ms. Buenrostro's. A reading of the transcript of Ms. Buenrostro's testimony compared to Complainant's on this point satisfies the Commission that, as the hearing officer went on to state, "Ms. Buenrostro's testimony that Complainant asked for a drink to go and she offered him water instead is far more plausible." (Rec. Decision, p. 3):

Well, I remember it because I just got to work. I put away my jacket. And Mr. Blakemore walked in, he was pacing back and forth. It was not very crowded at Dublin's, so I could see him. The bartender approached him—his name is Devon Dixon. I don't know if you need that—approached him twice if he needed a drink. He was pacing back and forth. He was very imbalanced. I ask him if I can do anything for him and he said no, I am thinking.

Well, when he spoke to me he was very disoriented and also his eyes were not completely focused. So I assumed he was over-served. So I told the bartender, I said this gentleman may not drink anymore. The bartender approached him said sir, the hostess said you may not be served anymore. He said well, can I get my shot of the whiskey to go. The bartender said we do not have a license to sell to go, you can speak to that lady.

He approached me. He said, I want my whiskey shot to go. I said sir, I can give you water to go, no alcohol, I do not have the license. He was trying to start making a scene and I said you know what, sir, if you do not leave, I am calling the cops. And that was the end of it. (Tr. 86-87).

The Commission agrees with the hearing officer that Ms. Buenrostro provided a more plausible account of what happened than Complainant.

3. *That credibility should be resolved in favor of Complainant because Respondent "submitted false documents to the Commission," in that Respondent apparently completed the Verified Response without consulting Ms. Buenrostro and the hearing officer himself inferred that she fabricated her testimony to conform to the response.*

The hearing officer *did not* "infer" or find that Ms. Buenrostro fabricated her testimony at the hearing to conform to the Verified Response. Rather, the hearing officer noted that *Complainant* argues for such an inference. The hearing officer rejected Complainant's argument, finding it to be a "huge leap rather than a logical inference," and not the only inference which could be drawn from the facts. The hearing officer did note that "the gap in the evidentiary record does provide cause to question Ms. Buenrostro's credibility" but having noted the issue nevertheless found her account of the events of December 12, 2006, to be more credible than Complainant's. (Rec. Decision, pp. 3, 4).

Nor did the hearing officer make any finding that the Verified Response amounted to false testimony. He only noted that the source of information supporting the Verified Response was rendered



unclear given that Ms. Buonrostro testified she was not involved in preparing that document. The verification was signed by Fred Chamanara, president of Dublin Bar and Grill, Inc., the corporate entity which operates Dublin's Pub. His verification certifies "that a reasonable inquiry of known and readily available information has been made and that the statements set forth above are true and correct, except as to statements stated to be based on information and belief which I certify that I believe to be true." As to the events of December 12, 2006, the Verified Response admits that Complainant is African-American, admits that he entered Dublin's Pub and ordered a drink on the occasion in question, and admits that Complainant was refused service; thus these facts are not at issue. It asserts that Complainant was refused service because he appeared intoxicated, asserts that there were no Caucasian patrons dressed "similarly to Complainant, i.e. in construction clothing as per Paragraph 3 of the Complaint," and denies that it uses a dress code as a pretext not to serve Complainant because of his race; thus these are the only factual issues raised by the Verified Response. Ms. Buenrostro's testimony is that she reported to the owner the next morning that she had asked four patrons to leave. (FF 11; Tr. 168-69). It is not clear how much detail she reported at that time, although it appears that her report was brief. She also testified that at least one other employee, bartender Devon Dixon, was involved in the incident (Tr. 86-87), and so could have spoken with Chamanara about it.

Even though Ms. Buenrostro did not recall being consulted about preparation of the Verified Response, this evidence does not establish either that Chamanara fabricated the facts stated in the Verified Response or that Ms. Buenrostro fabricated her testimony at the hearing based on the general assertions and denials in the Verified Response. Ultimately, this case comes down to the relative credibility of Complainant compared to a specific witness, Ms. Buenrostro.

4. *That the hearing officer's credibility determination should not have been based on Complainant's inability to recall certain facts surrounding the incident, because it is not unreasonable that a person would forget "irrelevant" facts while recalling the relevant ones.*
5. *That the hearing officer was not competent to determine that it was not credible that Complainant was "devastated" by his experience yet remained outside the bar afterwards, because these are "scientific" determinations which should be made only by a behavioral psychologist, not a trier of fact.*
6. *That it was error for the hearing officer to assume without evidence that Complainant could not have heard people cursing when he was standing outside the bar after he was asked to leave. Complainant urges that from "common knowledge," one can "imagine" that someone standing outside a bar with windows could hear conversations going on inside, and there was no evidence that the bar is soundproof.*

These arguments merely propose reasoning supporting a different assessment of credibility; they do not establish that the hearing officer's credibility assessment in favor of Ms. Buenrostro's testimony over Complainant's was against the weight of the evidence. The hearing officer clearly found Ms. Buenrostro more credible than Complainant, and it was the hearing officer who observed the demeanor of these two witnesses as they testified at the hearing.

In finding facts, the hearing officer and Commission are entitled to consider reasonable inferences from known facts and their general knowledge of the affairs of life including how people are likely to respond in certain situations, among other factors. For example, in *Stovall, supra*, a complainant's account of sexual harassment was found not credible in part because she claimed she freely allowed the alleged harasser into her apartment after he had allegedly harassed her to the point

where, she claimed, she barricaded her door. In *Wiles, supra*, the complainant was found not to have proved a hostile environment in part because her testimony about the timing of the alleged harassment was not credible. In *Anderson v. Stavropoulos*, CCHR No. 98-H-14 (Feb. 16, 2000), a complainant's testimony about bias was found not credible because his story changed from the time he filed the complaint to the hearing. See also, e.g., *Chimpoulis and Richardson v. J & O Corp. et al.*, CCHR No. 97-E-123/127 (Sept. 20, 2000); *Doxy v. Chicago Public Library*, CCHR No. 99-PA-31 (Apr. 18, 2001); and *Little v. Tommy Gun's Garage, Inc.*, CCHR No. 99-E-11 (Jan. 23, 2002), for discussion of factors which may be considered in assessing credibility.

The hearing officer explained his relative credibility determination. Although he had credibility concerns about both witnesses, he found that Ms. Buonrostro's testimony about the offer of a drink to go was more plausible than Complainant's; that Complainant's testimony provided only selective details surrounding the incident at issue; that Complainant's "strategic evidence gathering" following the incident (including *not* going to another bar but remaining outside conducting further observations) is inconsistent with his testimony that he was "devastated" by the denial of service; and that Complainant's testimony that he could hear cursing while looking through a window outside the bar was also implausible.

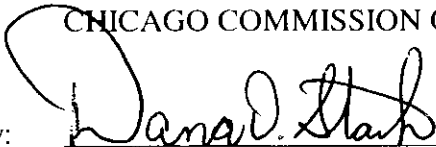
The hearing officer found Ms. Buenrostro's testimony to be more direct, to the point, and plausible, and Complainant's less plausible. He found Complainant's testimony to consist of selective recall of the facts, for example, while Ms. Buenrostro's was detailed and contextual. These bases for credibility determination are not unreasonable. Based on the hearing officer's opportunity to observe the parties and a review of the hearing transcript, the Commission accepts the hearing officer's assessment of the relative credibility of these two critical witnesses as not inconsistent with the evidence.

Based on this assessment of relative credibility, the hearing officer credited Ms. Buenrostro's testimony on the issue that is crucial to the outcome of this case: that she believed Complainant was intoxicated and that was the only reason she refused to allow him to be served. Whether or not Complainant actually was intoxicated is not the issue before the Commission, but rather whether Ms. Buenrostro reasonably believed Complainant to be intoxicated and whether Complainant's race was a factor in her decision to deny him service and insist that he leave the premises. The Commission does not find the hearing officer's credibility assessment to be against the weight of the evidence. As a result, the Commission cannot find that Respondent's explanation for its actions is pretextual; rather, the Commission finds that Ms. Buenrostro refused to serve Complainant because she reasonably believed him to be intoxicated and not because of his race.

## V. SUMMARY AND CONCLUSION

Accordingly, by a preponderance of the evidence, Commission finds Respondent not liable for discrimination in violation of the Chicago Human Rights Ordinance and so DISMISSES the Complaint.

CHICAGO COMMISSION ON HUMAN RELATIONS

By:  \_\_\_\_\_  
Dana V. Starks  
Chair and Commissioner