

FILED

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LEXINGTON-FAYETTE URBAN COUNTY

HUMAN RIGHTS COMMISSION

HRC NO. 03-12-3135

LFUC HUMAN RIGHTS COMMISSION

AARON BAKER FOR GAY & LESBIAN
SERVICES ORGANIZATION;

LEXINGTON-FAYETTE COUNTY
HUMAN RIGHTS COMMISSION

COMPLAINANTS

vs.

ORDER

**GRANTING SUMMARY JUDGMENT MOTION OF COMPLAINANTS;
ORDER DENYING SUMMARY JUDGMENT MOTION OF RESPONDENT**

HANDS ON ORIGINALS, INC.

RESPONDENT

* * * * *

BACKGROUND

On March 28, 2012, Mr. Aaron Baker filed a verified complaint with the Lexington-Fayette Urban County Human Rights Commission (hereinafter the "Commission"), on behalf of the Gay and Lesbian Services Organization alleging that on or about March 8, 2012, the Respondent Hands On Originals denied them the full and equal enjoyment of a service when they refused to print the official t-shirts for the organizations' 2012 Pride Festival.

Following an investigation by the Commission, a Determination of Probable Cause and Charge of Discrimination was filed on November 13, 2012. The Charge of Discrimination held

that the Respondent violated Lexington-Fayette Urban County Government local Ordinance 201-99; Section 2-33, (hereinafter sometimes referred to as the “Fairness Ordinance”), which prohibits a public accommodation from discriminating against individuals based upon their sexual orientation or gender identity.

This matter is before the Hearing Commissioner upon motion of the respective parties for Summary Judgment. The Commission seeks summary judgment affirming the Commission’s charge of discrimination. The Respondent seeks summary judgment dismissing the charge of discrimination on grounds the Respondent did not refuse to provide the services requested by GLSO on the basis of sexual orientation or gender identity, but upon religious grounds and because the Respondent and its owners did not want to convey the ideological message that people should take pride in engaging in sexual relationships or sexual activity outside of a marriage between one man and one woman.

The Respondent is a commercial business located within Fayette County, Kentucky. The Respondent prints promotional material for business and private organizations, including shirts, hats, bags, blankets, cups, bottles and mugs. At all relevant times herein, the Respondent was an S-Corporation, with three equal shareholders, including Mr. Blaine Adamson, Managing Owner. The Respondent does not deny that it is a “public accommodation,” as that term is defined in the Fairness Ordinance, and those sections of the Kentucky Civil Rights Act as incorporated by reference in the ordinance.

The Respondent has a stated policy: *“Hands on Originals both employs and conducts business with people of all genders, races, religions, sexual preferences, and national origins. However, due to the promotional nature of our products, it is the prerogative of Hands On Originals to refuse any order that would endorse positions that conflict with the convictions of the ownership.”* The Respondent’s policy is also published on the Respondent’s website.

At all relevant times herein, Mr. Adamson instructed his sales representatives to decline

to design, print, or produce orders whenever the requested material was perceived to promote an event or organization that conveys messages that are considered by the sales representative or Mr. Adamson to be inappropriate or inconsistent with Christian beliefs. The Respondent has declined thirteen orders over a period of the two years preceding the filing of its Motion for Summary Judgment, on the basis that the Respondent believed the designs to be offensive or otherwise inappropriate. Sales persons were directed by Mr. Adamson to bring proposed orders directly to Mr. Adamson if there were any questions about the appropriateness of the orders.

At all relevant times the Gay and Lesbian Services Organization (hereinafter “GLSO”) was an organization located in Lexington, Fayette County. The GLSO represents the lesbian, gay bisexual, transgender, queer, questioning, intersex and ally community. The GLSO holds an annual event called “Lexington Pride Festival,” that supports the gay, lesbian, bisexual and transgender communities in Fayette and surrounding counties. The GLSO scheduled its 2012 Lexington Pride Festival for June 30, 2012.

In February of 2012, GLSO Board Member Don Lowe, contacted three (3) t-shirt printing companies to obtain price quotes for t-shirts for the 2012 Pride Festival.¹ Mr. Lowe initially spoke to Mr. Kaleb Carter, an employee of the Respondent. Mr. Brad Shepherd subsequently sent an email to Mr. Carter providing him with a color printout of the desired design of the shirt. [The design of the shirt is shown in Respondent’s Exhibit 203 to its Motion for Summary Judgment as the second of two pages and indexed with Bates stamp HOO 0008]

Mr. Carter viewed the submitted design, did not find the design objectionable in any way, and advised Mr. Shepherd “this should work fine.” Mr. Carter then gave Mr. Shepherd a written quote via email. Mr. Carter did not present a copy of the quote or the design of the shirt to Mr. Adamson prior to giving Mr. Carter a written quote via email. This quote was presented to the

¹ The Hearing Commissioner notes that there is a factual dispute as to whether Mr. Lowe or Mr. Brad Shepherd of the GLSO was the first GLSO representative to contact the Respondent regarding the order. However, both parties have stipulated that the fact of whom first contacted the Respondent about the order is irrelevant and immaterial to the case herein.

GLSO Board on or about March 8, 2012.

On or about March 8, 2012, Mr. Lowe contacted the Respondent by phone to discuss the tender of a deposit for the shirts and to determine if a lower price could be negotiated. Mr. Lowe spoke to Mr. Blaine Adamson, owner of the Respondent. At the time of the conversation, Mr. Adamson had not spoken to Mr. Lowe or any other representative of the GLSO regarding the order. In addition Mr. Adamson had not viewed a copy of the t-shirt design, and did not do so during the entirety of the conversation with Mr. Lowe.

Mr. Adamson asked Mr. Lowe about the GLSO organization, what its mission was, and what the organization generally promoted. Mr. Lowe advised Mr. Adamson that the organization was the sponsor of the Lexington Pride Festival. Mr. Adamson informed Mr. Lowe that his is a Christian organization and that they would not print the t-shirts because their religious convictions would not allow them to print t-shirts for an event that encouraged people to be proud of their same-sex behavior. Mr. Adamson offered to give Mr. Lowe the name of another company that would honor the initial price quote of Mr. Carter on behalf of the Respondent and print the t-shirts. Mr. Lowe declined.

The Respondent corporation has a "Christian Division," bearing the name "Hands on Originals Christian Outfitters." Hands On Originals derives approximately seventy (70%) percent of its revenue from this division. This division of the corporation, like the Respondent's parent business is not a religious organization as described in the Ordinance at issue herein.

THE FAIRNESS ORDINANCE AND APPLICABLE STATUTORY LAW

Code of Ordinance 201-99; Section 2-33 (effective July 8, 1999)

- (1) It is the policy of the Lexington-Fayette Urban County Government to safeguard all individuals within Fayette County from discrimination in employment, public accommodation, and housing on the basis of sexual orientation or gender identity, as well as from discrimination on the basis of race, color, religion, national origin, sex, disability and age forty (40) and over.

- (2) For purposes of this section, the provisions of KRS 344.010 (1), (5) – (13) and (16), 344.030 (2) – (5), 344.040, 344.045, 344.050, 344.060, 344.070, 344.080, 344.100, 344.110, 344.120, 344.130, 344.140, 344.145, 344.360 (1) - (8), 344.365 (1) – (4), 344,367, 344,370 (1), (2) and (4), 344,375, 344,380, 344,400 and 344,680, as they existed on July 15, 1998, are adopted and shall apply to prohibit discrimination on the basis of sexual orientation or gender identity within Fayette County.
- (3) The Commission shall have jurisdiction to receive, investigate, conciliate, hold hearings and issue orders relating to complaints filed alleging discrimination in employment, public accommodation or housing based on the sexual orientation or gender identity of the complaining party...
- (4) For purposes of this section, “sexual orientation” shall mean an individual’s actual or imputed heterosexuality, homosexuality, or bisexuality.
- (5) For purposes of this section, “gender identity” shall mean: (a) having a gender identity as a result of a sex change surgery; or (b) manifesting, for reasons other than dress, an identity not traditionally associated with one’s biological maleness or femaleness.”
- (6) [Omitted]
- (7) The provisions of this section shall not apply to a religious institution or to an organization operated for charitable or educational purposes, which is operated, supervised, or controlled by a religious corporation, association or society except that when such an institution or organization receives 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 exemption.

KRS 344.010 (1)

“Person” includes one (1) or more individuals, labor organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, incorporated organizations, trustees, trustees in bankruptcy, fiduciaries, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies. (5) “Discrimination” means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or

persons, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this chapter.

KRS 344.120

Except as otherwise provided in KRS 344.140 and 344.145, 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 disability, race, color, religion, or national origin.”

KRS 344.130

As used in this chapter unless the context requires otherwise: “Place of public accommodation, resort or amusement: includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public...”

KRS 446.350

Government shall not substantially burden a person's freedom of religion. The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be substantially burdened unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A "burden" shall include indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities. [History: Created 2013 Ky. Acts ch. 111, sec. 1, effective June 25, 2013]

ARGUMENTS

COMPLAINANT GLSO LACKS STANDING BEFORE THE COMMISSION

The Respondent argues that the GLSO, as a group of individuals, does not have standing to bring a complaint of discrimination before the Lexington-Fayette County Human Rights Commission. Local Ordinance 201-99 Section 2-32(2-a) states that an “individual” who claims to be aggrieved may file a complaint with the Commission. The Respondent argues that the GLSO is not an “individual,” and therefore lacks standing to file a complaint of public accommodation

discrimination with the Lexington-Fayette County Human Rights Commission.²

Both parties agree that the term “individual” is not specifically or separately defined within the parenthetical confines of Local Ordinance 201-99 Section 2-32(2-a). The Respondent refers only to KRS 344.120, incorporated by reference in the Fairness Ordinance which defines it to be an “unlawful practice” only 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.

The Hearing Commissioner notes that when the Fairness Ordinance was adopted in 1999, it incorporated by reference not only KRS 344.120, but KRS 344.010(1) which defines “Person” to include (in pertinent part) “one (1) **or more** individuals... (and) associations...” The Hearing Commissioner holds that the GLSO, as a group of one or more individuals has standing under the terms of the Fairness Ordinance to lodge verified complaints of discrimination with the Lexington-Fayette County Human Rights Commission.

THE RESPONDENT REFUSED TO PRINT THE T-SHIRTS
ON RELIGIOUS GROUNDS AND ENFORCEMENT OF THE
FAIRNESS ORDINANCE INTERFERES WITH RESPONDENT’S
FREE EXERCISE OF RELIGION

The Respondent contends firstly that its refusal to print the t-shirts was on religious grounds. The Complainants argue that prior to the Respondent’s refusal to print the 2012 Pride Festival t-shirts for the GLSO, the Respondent has printed t-shirts which could be interpreted as crude or in conflict with a person’s Christian beliefs. These include a t-shirt with the phrase “Size Does Matter,” a design depicting a man poking his nipple, a t-shirt with a picture of a horse from behind with the words “Nice Mass,” a t-shirt with a picture of a naked woman bent over with the words “liquor in the front, poker in the rear,” and a t-shirt with the phrase “Fuck You”

² Mr. Baker admits that he did not file the complaint in his individual capacity or on his individual behalf.

readable when read upside down.

The Hearing Commissioner notes that while these designs, words, and depictions might be offensive to some and not others (including atheists, agnostics, and others of Christian or other faiths or religions), the sincerity of Mr. Adamson's religious beliefs and those of his two co-owners is not an issue herein.

In *Ginerich v. Commonwealth*, 382 S.W.3d 835 (Ky. 2012), the Kentucky Supreme Court addressed the issue of whether KRS 189.820 (requiring slow moving vehicles to display a brightly colored emblem) unconstitutionally interfered with the freedom of Amish to practice their religion. The Court held that KRS 189.820 is a statute of general applicability, designed to protect the public and is not specifically targeted at preventing any religious practice, and as such the government need only establish a rational basis for the statute in order to pass constitutional muster. In so holding, the Court stated "Relying on precedent of the United States Supreme court, this court's predecessor held that religious freedom has two components: freedom to believe and freedom to act..." ... "What one chooses to believe is an absolute freedom, which no power on earth can in reality arbitrate." [internal citations omitted.] [382 S.W.3d at 840]

The Hearing Commissioner is fully convinced by the factual evidence of probative value submitted in this case that the religious beliefs of Mr. Adamson and his co-owners of the Respondent, that the Respondent's religious beliefs are sincerely held. This however, does not end the inquiry.

In *Ginerich*, the Kentucky Supreme Court noted: "... "in the nature of things," freedom to act cannot be absolute in human society where beliefs and practices vary, and where a given practice, absolutely freely enacted, can inflict harm on others. Thus religious conduct must remain subject to regulation for the protection of society." [382 S.W.3d at 841]

In *Ginerich*, the Court held that "statutes, regulations, or other governmental enactments which provide for the public health, safety and welfare, and which are statutes of general

applicability that only incidentally affect the practice of religion, are properly reviewed for a rational basis under the Kentucky Constitution , as they are under the federal constitution.” [382 S.W.3d at 844]

In 2013, the Kentucky legislature enacted Kentucky Revised Statute 446.350. The Hearing Commissioner notes that KRS 446.350 was enacted after the Kentucky Supreme Court’s ruling in *Ginerich*. KRS 446.350 provides that “Government shall not substantially burden a person's freedom of religion. The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be substantially burdened unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest.”

The Fairness Ordinance is an ordinance designed to protect the public and is not specifically targeted at preventing any religious practice. The ordinance is a neutral one of general applicability. Of note is that the ordinance seeks to protect persons of varying sexual orientation, including not only those who identify themselves as homosexual or bisexual, but those who identify themselves as heterosexual.

The Respondent argues that the ordinance could have provided a less restrictive means by excluding those circumstances where other business of public accommodation were willing and could have provided the same service refused by the Respondent. This argument not only lacks merit but its acceptance would completely eviscerate the purpose of the ordinance to prohibit discrimination by each business engaged in public accommodation.

In its enactment of the Fairness Ordinance, Lexington-Fayette County Urban Government chose to include “sexual orientation” and “gender identity” as classes of persons deserving of protection from the humiliation and other effects of being denied services denied to

others. The ordinance effectively places discrimination based on sexual orientation or gender identity on par with the effects of discrimination based upon race, color, religion, national origin, sex, disability and age forty (40) and over.

“... the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law prescribes (or proscribes) conduct that his religion prescribes.” *Emp’t Div. Dep’t of Human Res. of Or. v. Smith*, 494 U.S. 872,879, 110 S. Ct. 1595, 108 L.Ed.2d 876 (1990)

In regards to KRS 446.350, an analysis of the Fairness Ordinance does not support a finding that the ordinance “substantially burden(s)” the Respondent’s freedom of religion. In addition, the Commission has presented clear and convincing evidence that the Fairness Ordinance addresses a compelling interest of Lexington-Fayette County government in safeguarding specified classes of individuals from the humiliation and other deleterious subjective and objective effects of being denied equal access to public accommodations.

In addition, the Commission has presented more than sufficient evidence of probative value to support a finding that the ordinance was enacted on a rational basis. [*Gingerich*, supra]

THE RESPONDENT REFUSED TO PRINT THE T-SHIRTS AS AN EXERCISE OF FIRST AMENDMENT RIGHTS

The Respondent argues that in addition to religious grounds, it refused to print the 2012 Pride Festival shirts, because printing of the shirt would convey a message, and it did not want to convey the ideological message that people should take pride in engaging in sexual relationships or sexual activity outside of a marriage between one man and one woman.

The Respondent places great emphasis on the fact that Mr. Adamson did not announce his refusal to print the t-shirts until he was given a verbal description of the shirt by Mr. Lowe

over the telephone, for the proposition that the refusal was not based upon the sexual orientation of the organization or its members, but on the content of the message conveyed by the design of the shirt.

The Hearing Commissioner notes that in an interview with Ms. Marjorie Gonzales, Commission investigator, conducted on June 6, 2012, Mr. Adamson was asked “*On or about March 8th, when you spoke to Don Lowe of the GLSO, did you attempt find out what type of organization the GLSO was during that conversation?*” Mr. Adamson responded “*I don’t recall asking that specifically. I recall asking what the project was about, um, ‘cuz I had somewhat of an idea, but I wasn’t sure ... He basically said it was a pride festival downtown that was for the gay and lesbian community. And then he began to tell me, because I asked him, what was on the shirt. That was my next question, and he said ‘pride festival.’*” [Respondent’s Exhibit 604, p. 13-14]

The evidence supports a finding that prior to being given the verbal description of the t-shirt, Mr. Adamson was aware that the GLSO was composed of individuals identifying themselves as gay and lesbian. The evidence of record also supports a finding that Mr. Adamson intended to refuse the order prior to learning of the design of the shirt.

In the same interview with Ms. Gonzales on June 6, 2012, Mr. Adamson was shown a color copy of the t-shirt design and was asked “*What about this design that you find offensive? Or what about this picture that you see here would you find offensive enough not to print?*” Mr. Adamson stated “*um, the Lexington Pride Festival, the wording. To me, it’s promoting a*

message, um, an event that I can't agree with because of my conscience." Ms. Gonzalez then asked *"Okay. So would you say that it's not exactly the design of the shirt that's offensive, but rather the message that it's portraying and what the GLSO stands for?"* Mr. Adamson responded *"Um, specifically, it's the Lexington Pride Festival, the name, and that it's advocating pride in being gay, in being homosexual, and I can't promote that message. It's something that goes against my belief system."* [Respondent's Exhibit 604, p. 15]

The Respondent argues that Mr. Adamson's objection to the printing of the t-shirt was not because of the sexual orientation of the members of the GLSO, but because of the Pride Festivals' advocacy of pride in being homosexual. Acceptance of the Respondent's argument would allow a public accommodation to refuse service to an individual or group of individuals who hold and/or express pride in their status. This would have the absurd result of including persons with disabilities who openly and proudly display their disabilities in the Special Olympics, persons of race or color, who are not only of differing race and color, but express pride in being so, and persons of differing religions who express pride in their religious beliefs.

The Hearing Commissioner notes that human beings are either internally proud or not of their race, color, sexual orientation, disability, age, or religion. Those that are internally proud of their status may or may not outwardly express such pride. It is doubtful that the Respondent would deny that a substantial number of those of the Christian faith are internally proud of being Christian, but never express that pride to others. However, those members of protected classes who outwardly express pride in their own religion or sexual orientation do so because of their

self-identification of being within that classification of persons.

The purpose of the Lexington Pride Festival is to celebrate and exhibit pride in their status as persons of differing sexual orientation or identity. The Hearing Commissioner agrees with the Commission's contention that the Respondent's objection to the printing of the t-shirts was inextricably intertwined with the status of the sexual orientation of members of the GLSO. Mr. Adamson's refusal on behalf of the Respondent was clearly because of the sexual orientation and identity of members of the GLSO.

The Respondent cites several cases for the proposition that the Respondent not only speaks when it prints a shirt, but that its speech is constitutionally protected. *Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241 (1974) held that a newspaper is a constitutionally protected speaker when it compiles the writings of others on its editorial page. *N.Y. Times Co. v. Sullivan*, 376 U.S. 254 (1964) (A newspaper is a constitutionally protected speaker when its customer pays it to print an advertisement that the customer created.) *Hurley v. Irish-American Gay, Lesbian & Bisexual Group of Boston*, 515 U.S. 557 (1995) (the Court prohibited the State of Massachusetts from applying its sexual orientation public-accommodations law to punish a parade organization for declining to facilitate the message of a gay-advocacy group.) *ETW Corp. v. Jireh Publ'g, Inc.*, 332 F.3d 915 (6th Cir. 2003) (publishers disseminating the work of others who create expressive material come wholly within the protective shield of the First Amendment.)

The Hearing Commissioner agrees that these cases support a finding that when the

Respondent prints a promotional item, it acts as a speaker, and that this act of speaking is constitutionally protected. The issue however is not whether the Respondent’s speech, or refusal to speak is constitutionally protected, but the limits of that protection.

The Respondent cites *Wooley v. Maynard*, 430 U.S. 705 (1977), for the proposition that the constitutional right to free speech “includes the right to speak freely and the right to **refrain from speaking.**” (Emphasis added.) [430 U.S. 705, at p. 714] The facts of the case before the Hearing Commissioner are distinguishable from *Wooley*. In *Wooley* the court was addressing a government-mandated message that motorists display the State’s motto of “Live Free or Die” on their vehicle license plates. In this case there was no government mandate that the Respondent speak. The Fairness Ordinance merely proscribes discrimination in public accommodations on grounds of sexual orientation and gender identity. In addition, the government mandate in *Wooley* did not conflict with the rights of others.

The case of *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943), dealt with a State imposed requirement that students salute the American flag and recite the Pledge of Allegiance. The *Barnette* Court noted “the freedom asserted by these appellees does not bring them into collision with rights asserted by any other individual. It is such conflicts which most frequently require intervention of the State to determine when the rights of one end and those of another begin.” [319 U.S. at 630]

The Fairness Ordinance does not require the Respondent to display any message, and does not require the Respondent to print promotional items including t-shirts. The Fairness Ordinance only mandates that if the Respondent operates a business as a public accommodation, it cannot discriminate against potential customers based on their sexual orientation or gender identity.

The refusal to provide the services of printing a t-shirt to GLSO directly harms the rights

of GLSO members to be free of discrimination in the market place. In the case before the Hearing Commissioner, the Lexington-Fayette County Urban Government enacted the Fairness Ordinance to minimize that harm by pronouncing where the Respondent’s rights end and the Complainants rights begin.

In the case of *Elane Photography, LLC, v. Willock*, 309 P.3d 53 (N.M. 2013), cert. den. 134 S.Ct. 1787, 188 L.Ed.2d 757, 82, U.S.L.W. 3585 (April 7, 2014), the Supreme Court of New Mexico addressed the issue of whether a photography studio violated the New Mexico Human Rights Act’s (NMHRA) prohibition against discrimination in a public accommodation, when it refused to photograph a commitment ceremony between two women. The Court held that the New Mexico Human Rights Act does not violate free speech guarantees because the act does not compel (the photography studio) to either speak a government-mandated message or to publish the speech of another.

The Court noted that the purpose of the New Mexico public accommodation law was to “ensure that businesses offering services to the general public do not discriminate against protected classes of people, and the United States Supreme Court has made it clear that the First Amendment permits such regulation by states. Businesses that choose to be public accommodations must comply with the NMHRA, although such businesses retain their First Amendment rights to express their religious or political beliefs.” [309 P.3d at 59] “... when a law prohibits discrimination on the basis of sexual orientation, that law similarly protects conduct that is inextricably tied to sexual orientation.” [309 P.3d at 62] The United States Supreme Court denied certiorari of the *Elane* case on April 7, 2014. 134 S.Ct. 1787, 188 L.Ed.2d 757, 82, U.S.L.W. 3585

The Lexington-Fayette County Human Rights Commission, and the Charging Party in this case argue that there is no genuine issue of material fact, and that the Hearing Commissioner should rule as a matter of law that the Respondent, a public accommodation as that term is

defined in the Fairness Ordinance, discriminated against the GLSO when it refused to print t-shirts intended as the official shirt for the 2012 Pride Festival.

The evidence of record shows that the Respondent discriminated against the GLSO because of its members' actual or imputed sexual orientation by refusing to print and sell to them the official shirts for the 2012 Lexington Pride Festival. In addition, the Hearing Commissioner holds that the application of the Fairness ordinance does not violate the Respondent's right to free speech, does not compel it to speak, and does not burden the Respondent's right to the free exercise of religion.

ORDER

Summary Judgment is hereby granted to the Complainant GLSO and the Lexington-Fayette Urban County Human Rights Commission. The Respondent's refusal to provide goods and services of public accommodation to the Charging Party constitutes unlawful discrimination against the members of the GLSO on the basis of sexual orientation and sexual identity in violation of Local Ordinance 201-99. The Respondent is permanently enjoined from discriminating against individuals because of their actual or imputed sexual orientation or gender identity. The Respondent is ordered to participate in diversity training to be conducted by the Lexington-Fayette Urban County Human Rights Commission within twelve (12) months of the issuance of this Order.

R. Greg Munson
Hearing Commissioner

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