

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

TERESA FAIRLADY,

Petitioner,

FCHR Case No. 2013-02139

v.

DOAH Case No. 14-2675

BUSINESS NETWORKING
INTERNATIONAL,

FCHR Order No. 14-035

Respondent.

FINAL ORDER CLOSING FILE

This matter is before the Commission for consideration of the Order Relinquishing Jurisdiction, dated July 8, 2014, issued in the above-styled matter by Administrative Law Judge William F. Quattlebaum.

Findings of Fact and Conclusions of Law

The record reflects that the Commission investigated this case as a “public accommodations” discrimination case, found that it did not have jurisdiction over the Respondent because Respondent is not a place of “public accommodation,” and, accordingly, issued a Determination: No Jurisdiction.

Petitioner subsequently filed a Petition for Relief in which it alleged that Respondent was a “club” as defined in Section 760.60, Florida Statutes, and requesting relief under the operation of that statutory provision.

The Administrative Law Judge issued an Order to Show Cause requiring Petitioner to show cause why jurisdiction should not be relinquished to the Commission for such further proceedings as are warranted, noting that Section 760.60, Florida Statutes, does not provide for a hearing at the Division of Administrative Hearings.

Petitioner responded to the Order to Show Cause in a document entitled, “Petitioner’s Answer to Order to Show Cause,” stating that the Commission did not comply with the procedure set out in Section 760.60, Florida Statutes, and requesting an order either maintaining jurisdiction or ordering the Commission to comply with Section 760.60, Florida Statutes.

The Administrative Law Judge issued the Order Relinquishing Jurisdiction currently before the Commission. The order states, “The Determination issued by the FCHR indicates that the FCHR failed to comply with the requirements of Section 760.60.” The order directs, “Jurisdiction is relinquished to the FCHR to permit the FCHR an opportunity to investigate the Petitioner’s Complaint as required by section 760.60(2) and to permit the Petitioner to commence a civil action in court, if the Complaint is not resolved by the agency.”

Section 760.60(1), Florida Statutes (2013), prohibits discriminatory practices in certain clubs. Specifically, one of the practices it prohibits is discrimination on specified bases in “evaluating an application for membership” in a club as defined.

A person seeking to remedy a violation of this section may file a complaint with the Commission, and within 30 days of the filing of the complaint the Commission shall investigate the complaint and give the person notice in writing if it intends to resolve the complaint. Section 760.60(2), Florida Statutes (2013).

If the Commission fails, within 30 days of receiving the complaint, to give notice of its intent to eliminate or correct the alleged discriminatory practices of a club, or if the Commission fails to resolve the complaint within 30 days of giving such notice, the person may commence a civil action in a court against the club, its officers, or its members to enforce this section. Section 760.60(3), Florida Statutes (2013).

As indicated, above, the Commission investigated the complaint filed in this matter as a “public accommodations” discrimination complaint. The Petition for Relief and “Petitioner’s Answer to Order to Show Cause,” suggest that Petitioner maintains that the complaint was brought pursuant to Section 760.60, Florida Statutes.

In our view, if the complaint filed by Petitioner is truly a complaint pursuant to Section 760.60, Florida Statutes, and not a “public accommodations” discrimination complaint, then the 30-day time period for the Commission to investigate the complaint and give notice of its intent to resolve the complaint has expired. It would seem the statutory provisions set out in Section 760.60(3), Florida Statutes, regarding the available remedy for the person filing the complaint in situations in which the Commission has not acted within 30 days of the filing of the complaint would be in effect.

We conclude that the appropriate disposition of this matter by the Florida Commission on Human Relations, given the current posture of the case, is to simply close its file.

Exceptions

Neither of the parties filed exceptions to the Administrative Law Judge’s Order Relinquishing Jurisdiction.

File Closure

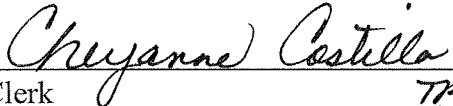
The file of the Florida Commission on Human Relations is hereby CLOSED.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right of appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 10 day of September, 2014.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Onelia Fajardo-Garcia; and
Commissioner Tony Jenkins

Filed this 10 day of September, 2014,
in Tallahassee, Florida.


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William F. Quattlebaum, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 10 day of September, 2014.

By: Cheyenne Costilla
Clerk of the Commission TB
Florida Commission on Human Relations