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:

Brandon Hudson
Complainants,
v.

G-A Restaurant LLC d/b/a Manor Chicago
Respondent.

Case No.: 10-P-112

Date of Ruling: July 18, 2012
Date Mailed: July 27, 2012

TO:

Jeffrey Gilbert
Johnson, Jones, Snelling, Gilbert & Davis, PC
36 S. Wabash Ave., Suite 1310
Chicago, IL 60603

Lema Khorshid
Fuksa Khorshid LLC
70 W. Erie, 3rd Floor
Chicago, IL 60654

FINAL ORDER

YOU ARE HEREBY NOTIFIED that, on July 18, 2012, 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 a 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
Entered: July 18, 2012

City of Chicago
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, 4th Floor, Chicago, IL 60610
(312) 744-4111 [Voice], (312) 744-1081 [Facsimile], (312) 744-1088 [TTY]

IN THE MATTER OF:	
Brandon Hudson **Complainant,** v.	**Case No.:** 10-P-112 **Date of Ruling:** July 18, 2012
G-A Restaurant LLC d/b/a Manor Chicago **Respondent.**	

FINAL RULING ON LIABILITY

I. PROCEDURAL HISTORY

On November 23, 2010, Complainant Brandon Hudson filed this Complaint, alleging that Respondent G-A Restaurant LLC, operating as Manor Chicago, discriminated against him by denying him access to their public accommodation on the basis of his race. Respondent filed a response to the Complaint on January 28, 2011. After an investigation, on October 6, 2011, the Commission on Human Relations entered a finding of substantial evidence of a violation of the Chicago Human Rights Ordinance. A public administrative hearing was held on April 18, 2012. The Hearing officer issued his recommended ruling on May 30, 2012. Neither party has filed objections.

II. FINDINGS OF FACT [1]

1. Complainant Brandon Hudson and his fiancée Sheryl Lewis are African-American (Complaint, paragraphs 1 and 3). Ms. Lewis wanted to hold a birthday party for him at the club Manor Chicago, Respondent (T. 14).

2. About one week before Complainant's birthday, Ms. Lewis spoke to Lauren Sarkisian, one of Mr. Hudson's co-workers (T. 14). Ms. Sarkisian also worked part-time for a company called Premier Marketing. Premier is in the business of nightlife promotions and hospitality marketing for downtown bars, restaurants, and nightclubs (T. 320).

3. Ms. Sarkisian had no direct contact with Manor. Rather, she would contact the owner of Premier, Anthony DiClementi, about making a reservation (T. 95-96). Mr. DiClimenti, in turn, would contact the club to determine whether there was an available table. The club would get the guest's financial information and confirm the reservation (T. 324-325). Premier was paid by Manor based either upon the number of customers who booked reservations through Premier or the amount of money spent by those customers (T. 328).

4. Ms. Lewis did not give Ms. Sarkisian any credit card information, nor did she receive any written confirmation from Manor or from Premier regarding the reservation. Ms. Sarkisian

[1] In this opinion, the Commission has re-ordered some of the hearing officer's findings of fact and has organized them into numbered paragraphs. However, except as noted with respect to Finding of Fact 24, the Commission adopts the hearing officer's proposed findings of fact without modification.

testified that she forwarded the Lewis reservation to Mr. DiClementi (T. 99). Mr. DiClementi did not recall whether Ms. Sarkisian passed the Lewis reservation on to him (T. 334) and was not familiar with Ms. Lewis's name (T. 330).

5. Ms. Lewis testified that her understanding, based upon her conversations with Ms. Sarkisian, was that "we would have a table and a free bottle of champagne and we just had to go to the door and just say we're with Lauren from Premier Marketing" (T. 15-16).

6. Ms. Sarkisian testified that, contrary to Ms. Lewis's understanding, she did not make a paid table reservation for Ms. Lewis or the Hudson party (T. 103-104). Instead, she arranged a "promotion" for a free bottle of champagne for a group of four to five girls (T. 104). This was known as a bachelorette promotion, designed to attract women into the club (T. 326). She testified as follows (T. 103-104):

> A. It was for a promotion of a free bottle for a group of girls. So it's a little different than the way it would work for a table reservation that's actually a paying table.
> Q. Why? What would be the difference?
> A They have to arrive at a certain time and they have to arrive in a group of girls and they would be – and if they didn't have a paying table at that time, then they would be admitted. So if that table was sold, they wouldn't have been admitted.
> Q. Did you tell Ms. Lewis any of this?
> A. Well, yeah. That's why we had to set up a certain time. If she came early enough, usually that table wouldn't have sold.
> Q. And when would early be?
> A. I don't honestly remember. I think it was 10:00 or maybe 10:30. I haven't done this in a while.

7. Ms. Sarkisian never reserved a paid table for the Hudson party. If Ms. Lewis had reserved a table through the promotion, the male members of the Hudson party would have to "stay separate" because "[t]he free table was a promotion for the girls" (T. 105-106).

8. Mr. Hudson, who worked at a bank at the time, mentioned to a customer that he would be going to Manor for a birthday celebration. The customer, Scott Newman, happened to have an employee working at his realty company who also worked nights as a server at Manor. He told Mr. Hudson that he would have that employee, Ashley Pincus, contact him (T. 39).

9. Mr. Hudson and Ms. Pincus exchanged a series of text messages on September 25, 2011. In those messages, Mr. Hudson told Ms. Pincus that that he was interested in getting a table for that evening, for a party of about 10 girls and 6 guys. Ms. Pincus asked only for his last name and said, "I'll make sure they're holding a table for you." Mr. Hudson responded, "Awesome! I appreciate your help on short notice. My last name is Hudson" (T.64).[2]

10. On the night of September 25, 2011, Mr. Hudson, Ms. Lewis, and a group of their friends rented a limousine and went out to celebrate. They believed that they had reservations for a table at Manor. Mr. Hudson testified that his arrangement with Ms. Pincus was "pretty much like insurance to make sure we would have no problem because we already had a reservation through Lauren Sarkisian (T. 40).

[2] In the view of the hearing officer, Mr. Hudson's testimony and the text messages he exchanged with Ms. Pincus cast some doubt on whether he and Ms. Lewis believed they already had confirmed reservation at Manor.

11. Mr. Hudson notified Ms. Pincus when his entourage was en route to Manor, about 30-40 minutes away. Ms. Pincus responded, "We don't open until 10 and there won't be anyone there until closer to 12. I would recommend going somewhere else for a drink first. I'll be there at 11:15" (T. 41). There followed two more text messages (T.41):

Hudson:	OK. Should we get there early to avoid a line and wait until 11:15 for you?
Pincus:	You don't need to wait in line. Give them my name and tell them you have a table.

12. Ms. Pincus later testified that when she texted Mr. Hudson about reserving a table for him, she had no idea whether a table would be actually be available. She arrived at Manor around 11:15 p.m. (T. 306) and does not recall ever having a conversation with the host regarding a reservation for Mr. Hudson (T. 306-307).

13. Lauren Dillon was the VIP Customer Relations Host at Manor and was responsible for confirming all reservations and putting together the final guest list (T. 177-178). The person who "booked" a table would provide the name of the guest to Ms. Dillon. She would then confirm the reservation with the guest by email and make sure that she had credit card information and authorization for a $1,000 minimum charge (T. 178, 180).

14. Ms. Dillon testified convincingly that the only reason she would refuse to book a table for a party was if none was available that night (T. 184), and that she never received a reservation from any person in the name of Mr. Hudson or Ms. Lewis (T. 200-201).

15. The Hudson party proceeded directly to Manor despite the advice of Ms. Pincus to arrive later. Mr. Hudson stated that "we were early based upon what Ashley [Pincus] had told us" (T. 41-42). Ms. Lewis testified that they arrived at Manor at either 10:00 or 10:30 p.m. (T. 20), a fact which has been conceded by Mr. Hudson (Complainant's Post-Hearing Memorandum at p. 10). On this evidence, the hearing officer found that the party arrived between 10:00 and 10:30 p.m.

16. When the Hudson party arrived at Manor, Mr. Hudson spoke with the doorman, Steve Loncar, also known as "Big Steve" (T. 195). Mr. Loncar's job was to determine whether a person was on the guest list before allowing them entry to the club (T. 231).

17. According to Ms. Lewis, she followed Ms. Sarkisian's instructions and said that they were with Lauren from Premier (T. 20). Mr. Hudson told Mr. Loncar that he had reservations and gave him the names Lewis, Hudson, Sarkisian, Pincus, and Premier (T. 43). Mr. Loncar informed Mr. Hudson that there were no such reservations (T. 20, T. 42).

18. The written guest list for the night of September 25, 2011, did not include the names of Mr. Hudson, Ms. Lewis, or anyone associated with them. Nor were there reservations – either for a paid table or for a complementary bottle of champagne – in any of their names indicating that they had been booked through Premier, although four other groups had booked bachelorette promotions through Premier that evening (Joint Ex. 1).

19. Mr. Hudson asked Mr. Loncar to contact Lauren Sarkisian and Ashley Pincus (T. 43), but Mr. Loncar made no effort to do so. Mr. Loncar had never heard of Lauren Sarkisian, and neither Ms. Sarkisian nor anyone claiming to work for Premier attempted to intercede on behalf of the Hudson party (T. 241). Ms. Pincus had not yet arrived for work (T. 311) and did not have the authority to confirm tables on the final guest list (T. 313). According to Mr. Loncar, a text

message purportedly sent by someone working at Manor would not get a party that did not appear on the list into the club (T. 240).

20. Ms. Dillon also spoke with Mr. Hudson, showed him the guest list, and explained that all tables were booked up for the evening. Ms. Dillon testified that when the Hudson party appeared at Manor, the club was already "booked out for the evening" (T. 195). This was not unusual, as the club was booked to capacity almost every Saturday night (T. 198). The September 25, 2011 guest list indicates that all tables at Manor were booked that night (Joint Ex. 1).

21. Both Mr. Loncar and Ms. Dillon testified that a count was kept at the door of the number of people who had entered, along with the number of people expected based upon advance reservation. Mr. Loncar testified that he kept track of the number of patrons entering Manor each night and that the club was at capacity almost every Saturday night (T. 246-247). Although Mr. Loncar did not recall at what time the club reached capacity that evening, he testified that on some nights it could reach full capacity only 30-60 minutes after opening (T. 247).

22. Ms. Lewis testified that there were fourteen people in the party, including herself and Mr. Hudson, but named thirteen people who had accompanied them to the club (T. 16-18). Mr. Hudson testified that there were sixteen people in their party (T. 27). The hearing officer acknowledged that there was some confusion about the exact number of the Hudson party, but concluded that the exact number was not material.

23. Manor had a maximum capacity of 269 people (T. 212) and had fifteen tables (T. 181, Joint Exhibit 2), each of which could accommodate about five people (T. 180). Mathematically, Mr. Hudson's party would have required three paid tables to have been seated.

24. Ms. Lewis offered to break up the group if it would allow them to gain entrance (T. 43). Mr. Hudson and Ms. Lewis both testified that Mr. Loncar responded, "No, you people will take over the bar" (T. 21). The hearing officer credited the testimony of Mr. Shay Allen, a friend of Complainant and member of the party,[3] who testified that he heard Mr. Loncar say, "Your group will take over the bar" (T. 136). He later repeated the statement as, "Your group, you people, will take over the bar" (T. 142).

25. Mr. Loncar denied saying that "you people will take over the bar" (T. 238) and denied ever taking race into account when deciding how to accommodate a guest (T. 232). Mr. Loncar testified that he has an African-American brother-in-law, niece, and nephew with whom he vacations, and that he has never been called a racist (T. 233). The hearing officer found his testimony to be sincere and convincing.

26. Mr. Loncar told the party that they could wait in line to see if space opened up, and Ms. Lewis replied, "Okay, we'll just wait in line" (T. 20). While waiting in line, Mr. Hudson and others observed Mr. Loncar allowing between fifteen and twenty guests, all of whom were Caucasian, into the club (T. 20-22, T. 45).

27. Mr. Loncar testified that there were approximately twenty guests who were considered "regulars," meaning that they were present at the club every week (T. 244-245). Of this group, five were African-American (T. 247). Mr. Loncar was authorized to admit regulars even if they did not have reservations (T. 243), but he could not admit patrons who were not on the guest list

[3] The hearing officer also described Allen as a former State's Attorney. The Commission has not taken his occupation into account in determining his credibility.

and were not regulars; this could only be done by Ms. Dillon or Patrick Comer, the General Manager of Manor (T. 236). Ms. Dillon testified that the club tried to accommodate patrons who arrived without reservations when the club had space available. However, the club usually had to stick to reservations as much as possible (T. 217). On a typical Saturday night, patrons could wait in line, as the Hudson party did briefly, to see whether sufficient space would open up to admit them (T. 218).

28. Ms. Lewis (T. 21) and Mr. Allen (T. 142) both testified that the party waited in line for approximately 30 minutes before leaving. Mr. Hudson testified that they waited for 45-60 minutes, while Mr. Loncar remembered them waiting for 15-20 minutes. The hearing officer found that the party waited in line for 30 minutes before leaving, noting that they had already left Manor by the time Ms. Pincus arrived at 11:15 PM.

29. Mr. Hudson had a telephone conversation with Mr. Comer about a week after the event in controversy. Mr. Hudson asked Mr. Comer to check the guest list, and Mr. Comer confirmed that his records showed no reservations under any of the names Mr. Hudson provided (T. 48, T. 283).

30. Mr. Hudson testified that when he persisted with his complaint, Mr. Comer dismissively told him that "if I didn't like the way my party was treated I should sue" (T. 49). Mr. Comer testified that Mr. Hudson had refused to give his name or number and had threatened to sue the club (T. 284).

II. LEGAL STANDARDS

The Chicago Human Rights Ordinance ("CHRO") makes it unlawful for a "person that owns, leases, rents, operates, manages or in any manner controls a public accommodation [to] withhold, deny, curtail, limit or discriminate concerning the full use of such public accommodation by any individual because of the individual's race." CHRO Sec. 2-160-070. "Discriminatory acts include ... denying admittance to persons in a Protected Class ... [and] using different terms for admittance of persons in a Protected Class." CCHR Reg. 520.100.

A public accommodation is defined as a "place, business establishment, or agency that sells, leases, provides or offers any product, facility, or service to the general public." CHRO Sec. 2-160-020 and CCHR Reg. 100(28). "[R]estaurants, bars or other establishments serving food or drink" are explicitly listed as public accommodations. CCHR Reg. 510.110. Thus Manor Chicago falls within the purview of the Chicago Human Rights Ordinance as a public accommodation.

In any case before the Commission, a Complainant has the burden of proving by a preponderance of the evidence that the respondent has violated the applicable Ordinance. "A complainant has two methods of proving discrimination; either by direct evidence or by indirect or circumstantial evidence, seeking to draw inferences from the actions of the respondent." *Mendez v. El Rey del Taco & Burrito*, CCHR No. 09-E-16 (Oct. 20, 2010). See also *Robinson v. Crazy Horse Too*, CCHR No. 97-PA-89 (Oct. 20, 1999); *Perez v. Kmart Auto Service et al.*, CCHR No. 95-PA-19/28 (Nov. 20, 1996); and *Pryor & Boney v. Echevarria*, CCHR No. 92-PA-62/63 (Oct. 19, 1994)—all illustrating that the Commission has utilized the indirect evidence method set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), to evaluate evidence in public accommodation discrimination cases. See also *Jenkins v. Artists' Restaurant*, CCHR No. 90-PA-14 (Aug. 14, 1991), and *Blakemore v. Dominick's Finer Foods*, CCHR No. 01-P-51 (Oct. 18, 2006), where discriminatory intent was inferred based on the totality of circumstances presented.

In weighing the evidence and making findings of fact, the hearing officer must determine the credibility of witnesses. *Poole, supra*; *Claudio v. Chicago Baking Co.*, CCHR No. 99-E-76 (July 17, 2002). Whether a statement evinces a discriminatory motive is an issue of fact. *McGavock v. Burchett*, CCHR No. 95-H-22 (July 17, 1996). The Commission reviews a hearing officer's proposed findings of fact pursuant to Section 2-120-510(l) of the Chicago Municipal Code, which provides in pertinent part: "The commission shall adopt the findings of fact recommended by a hearing officer ... if the recommended findings are not contrary to the evidence presented at the hearing." This standard of review takes into account that the hearing officer has had the opportunity to observe the testimony and demeanor of witnesses. *Poole, supra*; see also *McGee v. Cichon*, CCHR No. 96-H-26 (Dec. 30, 1997). The Commission will not re-weigh a hearing officer's recommended findings of fact unless they are against the manifest weight of the evidence. *Stovall v. Metroplex et al.*, CCHR No. 94-H-87 (Oct. 16, 1996); *Wiles v. The Woodlawn Organization et al.*, CCHR No. 96-H-1 (Mar. 17, 1999).

III. ANALYSIS

Complainant has not met his burden of proof by either direct or indirect evidence.

Mr. Hudson believed that he had confirmed table reservations at Manor Chicago. When he arrived at Manor, he was told he did not have a confirmed reservation and told to wait in line. After waiting about half an hour and seeing numerous Caucasian customers allowed into the club ahead of him, Mr. Hudson and his party left. His belief that he was refused access to Manor because of his race was sincere and reasonable, but ultimately mistaken. The events in controversy resulted from a series of unfortunate misunderstandings.

There was no direct evidence that Respondent or any of its employees or agents denied Mr. Hudson and his party entrance into Manor because of their race. Direct evidence is evidence which can be interpreted as an acknowledgement of discriminatory intent by a respondent or respondent's agent related to the specific action in question. See *Perez, supra,* and cases cited therein. In this case no evidence was presented that anyone ever made any direct statements to the effect that Complainant was barred from entry to Manor because of his race.

There was evidence that Mr. Loncar referred to the Hudson-Lewis party as "you people" when explaining that letting them in without a table reservation would mean they would take over the bar. The Commission has recognized that "you people" can be a pejorative reference to African-Americans which is "suggestive of racial animus" and thus may support a *prima facie* case of discriminatory intent. *Marshall v. Borouch*, CCHR No. 05-H-39 (Aug. 16, 2006) and cases cited therein. However, the use of the term "you people" is circumstantial, not direct, evidence of discriminatory intent and must be considered in context. The hearing officer did not find whether Mr. Loncar actually used the term "you people," but did find that Mr. Loncar was not referring to the race of Complainant or his party when he said that the group would take over the bar if they were all let in without a table reservation (Findings of Fact 24-25).

Further, the hearing officer found that the only person aware of the race of Mr. Hudson or Ms. Lewis was Ms. Sarkisian, a co-worker of Mr. Hudson (Finding of Fact 2). There is no evidence in the record establishing that Mr. DiClementi or Ms. Pincus were even aware of Complainant's race; therefore, there can be no suggestion that Respondent refused to place the Hudson party on the guest list because of their race. Nor is there any direct evidence that Mr. Loncar or Ms. Dillon took Complainant's race or the race of his guests into consideration after they arrived and refused to allow them into the club for that reason.

In the absence of direct evidence then, the Commission must determine whether there is circumstantial evidence sufficient to support an inference of discriminatory intent. It appears that the hearing officer recognized that there was sufficient evidence to support a *prima facie* case under the indirect evidence method. Specifically, (1) Complainant is African-American and as such is protected from discrimination under the Chicago Human Rights Ordinance; (2) he sought a reservation at Manor Chicago, a public accommodation, and had been assured by two individuals associated with Manor Chicago that he and his party would be admitted; but (3) he was refused admittance and told to wait even though he followed the instructions of the two individuals; and (4) he observed others who are not African-American being admitted even without reservations. None of these facts are in dispute (Findings of Fact 1, 5, 9, 10, 11, 17, and 18).

In response to this evidence, Respondent asserted several non-discriminatory reasons for denying Complainant's party entrance to the club upon their arrival. The hearing officer summarized these reasons as follows: (1) that Complainant had no reservations; (2) that Respondent's agents neglected to properly book the reservations; (3) that Manor lacked the space to accommodate Complainant's party. The key issue is whether these reasons are worthy of belief as stated, or are a mere pretext for racial discrimination. See, e.g., *Lawrence v. Atkins*, CCHR No. 91-FHO-17-5602 (July 29, 1992), and *Crenshaw v. Harvey*, CCHR No. 95-H-82 (May 21, 1997).

Complainant correctly points out that pretext can be found if a respondent's explanations for its conduct are shifting and inconsistent. "Shifting and inconsistent explanations can provide a basis for a finding of pretext ... [b]ut the explanations must actually be shifting and inconsistent to permit an inference of mendacity." *Schuster v. Lucent Technologies, Inc.*, 327 F.3d 569, 577 (7th Cir. 2003); see also *Pantoja v. American NTN Bearing Mfg. Corp.*, 495 F.3d 840, 851 (7th Cir. 2007), and *Simple v. Walgreen Co.*, 511 F.3d 668, 671 (7th Cir. 2007).

However, although Complainant characterized Respondent's explanations as shifting and inconsistent, the hearing officer rejected this argument and found the proffered explanations to be credible, non-pretextual, and non-discriminatory. The Commission agrees. As the hearing officer found, Respondent did not admit Complainant and his party to the club because no reservation had actually been received, and as a result Complainant's party was not on the guest list (Findings of Fact 12, 14, 18, 21). This explanation was consistently given to Complainant by Respondent (Findings of Fact 17, 20, 29).

Respondent further established that the two individuals who had assured Complainant and his fiancée that they had a reservation had never actually secured such a reservation. The hearing officer found this explanation to be supported by credible evidence (Findings of Fact 3, 4, 6, 7, 12, 13, 19). It is undisputed that neither Complainant nor his fiancée submitted any pre-payment for a table, nor did they receive any written confirmation that they had a table reservation (Finding of Fact 4).

The hearing officer found that Respondent had adequately explained why it did not admit Complainant's party while they waited in line, and that Complainant had not proven by a preponderance of the evidence that this explanation was pretextual. Respondent's evidence showed that although the club had a maximum capacity of 269 people, it had only fifteen tables which could seat "about" five people each (Finding of Fact 23). Complainant focused on whether his party could theoretically have been admitted, pointing out that even if five to seven people were seated at table, the club would only be filled halfway to capacity, and between 134 and 164

additional patrons could have been admitted (Complainant's Memorandum at p. 16). Complainant concluded from this math that "when Hudson's party arrived at Manor on Sept. 25, 2011, it was not full" (*Id.*).

Although Complainant's calculation may be correct, there was no evidence that it was Respondent's practice to fill the club to the maximum capacity of 269 people. Rather, the evidence established that Respondent admitted only parties with table reservations recorded on the guest list, plus about twenty "regulars" (including five African-Americans) who were admitted without reservations (Findings of Fact 27, 29). Only Ms. Dillon or Mr. Comer could override these rules (Finding of Fact 27). Mr. Loncar testified that the club reached this capacity almost every Saturday night, sometimes within 30-60 minutes of opening (Finding of Fact 21).

Ms. Dillon further explained in her testimony that that the club tried to accommodate patrons who arrived without reservations when it had space available. However, the club usually had to stick to reservations as much as possible, and on a typical Saturday night, when all tables were booked, patrons could wait in line as the Hudson party did briefly, to see whether sufficient space would open up to admit them (Finding of Fact 27). That is consistent with what she explained to Complainant—that the club was booked to capacity on the night in question, as Saturday night was the club's busiest night (Findings of Fact 20, 21). It is also consistent with Mr. Loncar's explanation that Complainant's party could not just be admitted without a table reservation because that would overcrowd the bar.

The admittance of some white patrons without apparent reservations was explained by the club's practice of allowing a small number of individual "regulars" to enter without table reservations, presumably to stand or sit at the bar. In context, Mr. Loncar and Ms. Dillon were accounting for table seating and regulars when referring to "capacity." Respondent presented unrefuted evidence that African-Americans were included among the regulars. Complainant did not show that a similarly situated group of another race, who were not regulars and who arrived without recorded reservations on a fully-booked Saturday, would not also have been asked to wait for a table or bar space to become available.

Ms. Lewis offered to break the Hudson party into smaller groups if that would facilitate their admission. It is unclear whether this meant that they were willing to have some members of the party admitted while the others waited in line, or that the party would break up into groups of four once the entire party was admitted to the club. The hearing officer's assessment was that Manor either did not want to admit a large party without reservations which would "take over" the bar area, or the club was already at capacity and could not have admitted Complainant's party. Instead of turning Complainant's party away, Respondent followed its protocol and gave them the option to wait in line.

Although it may have seemed suspicious to Complainant that Caucasian guests were let into the club while he and his party had to wait, Complainant did not refute the innocent explanation that he had no reservations and was not on the guest list, that those let into the club ahead of him were either regulars or were party of a party with reservations for that evening, and that neither Ms. Sarkisian nor nor Ms. Pincus, through whom Complainant and his fiancée attempted to secure reservations, actually obtained a reservation for them.

Complainant argued that Ms. Sarkisian, who is Caucasian, was allowed to enter Manor while the Hudson group was waiting, even though she was not known by the door staff and she was not a regular (Complainant's Post-hearing Memorandum at p. 3). However, Ms. Sarkisian testified that she was "at" Manor when the Hudson party came for their reservation (T. 100), and

Premier, for whom Ms. Sarkisian promoted tables, had a reserved table listed on the guest list (Joint Ex. 1). Complainant did not produce any evidence that Ms. Sarkisian was one of the people entering the club while his party was waiting in line, or that either he or Ms. Lewis saw Ms. Sarkisian at Manor while they were trying to enter.

Complainant also argued that the telephone phone conversation between himself and Mr. Comer establishes discriminatory animus (Findings of Fact 29 and 30). Complainant speculates that if Mr. Comer did not support a discriminatory admission policy, he would have taken Mr. Hudson's complaint more seriously – and his failure to do so shows that the Complainant's denial of admission was not a mistake, but was racially motivated. It is possible that a decision maker's statements or actions after the fact could reveal his prior motivations. However, although Mr. Hudson and Mr. Comer provided differing accounts of that telephone conversation, the hearing officer did not make a specific finding as to which version was more credible. Instead, the hearing officer found that neither account supported an inference of discriminatory intent. The Commission agrees with this determination. Mr. Comer's statements as described by Complainant are consistent with Respondent's position that it made no error which required remediation.

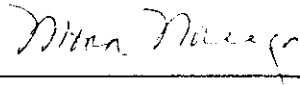
The hearing officer took into account that Ms. Sarkisian and Ms. Pincus both appeared as independent witnesses pursuant to a subpoena. Neither of them appeared to have cooperated with either Complainant or Respondent, to have maintained an ongoing relationship with either party, or to have any independent motive to fabricate testimony. The hearing officer found their testimony to be compelling evidence that the Hudson party was denied admission to Manor as a result of a series of unfortunate misunderstandings.

In summary, the hearing officer properly found that Complainant was not denied admission to Manor because he is African-American. As Respondent explained, Mr. Hudson did not have reservations, and Manor did not have room to admit his party during the relatively brief time that they were in line. Complainant has not shown this explanation to be pretextual.

IV. CONCLUSION

Complainant Brandon Hudson has not proved by a preponderance of the evidence that Respondent G-A Restaurant LLC d/b/a Manor Chicago discriminated against him concerning the use of a public accommodation based on his race. Accordingly, the Commission finds in favor of Respondent, and the Complaint in this matter is hereby DISMISSED.

CHICAGO COMMISSION ON HUMAN RELATIONS

By: 

Mona Noriega, Chair and Commissioner
Entered: July 18, 2012