

STATE OF INDIANA
CIVIL RIGHTS COMMISSION

DOCKET NO. PAr08080470

MARVIN SMITH,
Complainant,

FILE DATED

v.

SEP 24 2010

TRI ENTERTAINMENT,
INC. d/b/a LANDSHARKS;
Respondent.

Indiana State Civil Rights Commission

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDER**

On August 30, 2010, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

INDIANA CIVIL RIGHTS COMMISSION



COMMISSIONER



COMMISSIONER



COMMISSIONER



COMMISSIONER

Dated: 24 September 2010

To be served by first class mail on the following parties and attorneys of record:

Marvin Smith
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Noblesville, IN 46062

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FINE & HATFIELD, A Professional Corporation
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STATE OF INDIANA
CIVIL RIGHTS COMMISSION

DOCKET NO. PAra08080470

MARVIN SMITH,
Complainant,

FILE DATED

AUG 25 2010

Indiana State Civil Rights Commission

v.

TRI ENTERTAINMENT,
INC. d/b/a LANDSHARKS;
Respondent.

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

On August 25, 2010, Complainant Marvin Smith ("Smith") and Respondent Tri-Entertainment, Inc. ("Landsharks") filed their Joint Motion For Dismissal With Prejudice.

Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge for the Indiana Civil Rights Commission ("ICRC") proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. This proceeding began when Smith ("Smith") filed a complaint with the ICRC against Landsharks alleging that he was denied admission to Landsharks, a bar located in the part of Indianapolis known as Broad Ripple, purportedly because of failure to comply with the dress code but actually, he alleges, because of race. COMPLAINT OF DISCRIMINATION (July 30, 2009).

2. Landsharks denied Smith's claim of unlawful discrimination.

APPEARANCE AND ANSWER (February 21, 2008).

3. On October 16, 2009, Joshua Brewster, in his official capacity as Deputy Director of the Indiana Civil Rights Commission ("the Deputy Director"), issued his Notice Of Finding and Amendment, in which he (a) found probable cause in Smith's complaint, and (b) amended the complaint to join himself, in his official capacity, and alleging that the dress code is unlawfully discriminatory on its face because it has the effect of excluding a greater percentage of African Americans than persons of other races and is not the least discriminatory means of achieving Landsharks' legitimate business interests. NOTICE OF FINDING AND AMENDMENT (October 16, 2009).

4. A settlement was reached between the Deputy Director and Landsharks and the matter was dismissed, with prejudice, as between the Deputy Director and Landsharks. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (April 23, 2010).

5. The Joint Motion is expressly motivated by settlement.

6. There is no evidence of fraud, coercion, duress, or any other reason not to approve of the requested dismissal.

7. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. The ICRC has jurisdiction over the subject matter and the parties.

2. Settlement is a favored resolution and should be encouraged.

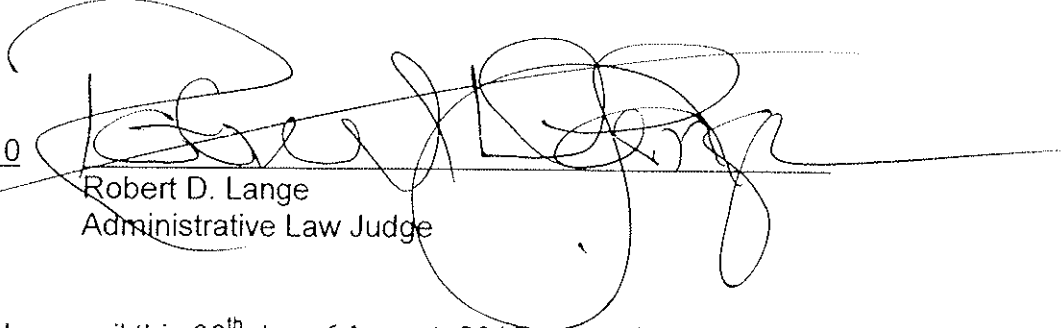
3. Administrative review of this proposed decision may be obtained by the filing of a writing identifying with reasonable particularity each basis of each objection within 15 days after service of this proposed decision. IC 4-21.5-3-29(d).

4. Any Finding Of Fact that should have been deemed a Conclusion Of Law is hereby adopted as such.

ORDER

1. The parties' Joint Motion For Dismissal With Prejudice is **GRANTED**.
2. Smith's complaint is **DISMISSED**, with prejudice.

Dated: 30 August 2010



Robert D. Lange
Administrative Law Judge

To be served by first class mail this 30th day of August, 2010 on the following parties and attorneys of record:

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and to be personally served this 30th day of August, 2010 on the following:

Indiana Civil Rights Commission
c/o Jamal L. Smith, Executive Director
Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2255