

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

Karanveer Singh,	:	
Complainant	:	
v.	:	PHRC Case No. 202101691
	:	
Tommy Gun Inc. d/b/a Targetmaster,	:	
Respondent	:	

Myeshia Martin	:	
Complainant	:	
v.	:	PHRC Case No. 202300175
	:	
Tommy Gun Inc. d/b/a Targetmaster,	:	
Respondent	:	

**STATEMENT OF THE CASE
FINDINGS OF FACT
CONCLUSIONS OF LAW
OPINION
RECOMMENDATION
FINAL ORDER**

STATEMENT OF THE CASE

Darlene Hemerka, Permanent Hearing Examiner. A virtual public hearing was held on May 9, 2024. Complainant Karanveer Singh filed a Complaint in PHRC Case No. 202101691 on January 20, 2022, alleging that the Respondent, a facility that includes a store which sells firearms, firearm accessories, and an indoor gun range and lounge, discriminated against him because of his religion; Sikh. Specifically, Singh alleged that he was denied use and access of the Respondent because he refused to remove or cover his turban, a head covering, he wears for religious reasons.

Complainant Myeshia Martin filed a Complaint at PHRC 202300175 on or about August 2, 2023. Martin's Complaint also alleged that Respondent discriminated against her because of her religion by denying her access and use because she refused to remove a head covering worn for religious purposes. Respondent filed Answers in both cases denying the allegations set forth in the Complaints.

The Pennsylvania Human Relations Commission investigated and found probable cause in both cases. Conciliation efforts were unsuccessful and both cases were placed on the public hearing docket. The Hearing Examiner consolidated the cases in January 2024 because they involved common questions of fact and law, named the same Respondent and sought similar relief. Complainant Singh was represented by Hogan Lovells US LLP and the Sikh Coalition. Complainant Martin was represented by Timothy Welbeck, Esq. and Respondent was represented by Michael Hawley, Esq. Morgan Williams, Esq. and Dana Prince, Esq. represented the Commonwealth's interest in the Complaints.

FINDINGS OF FACT¹

1. Complainants are Karanveer Singh (hereinafter Singh) and Myeshia Martin (hereinafter Martin) (or collectively Complainants).
2. Respondent is Tommy Gun, Inc. d/b/a Targetmaster (hereinafter Respondent or Targetmaster).
3. Thomas Milowicki (hereinafter Milowicki) is the sole owner of Respondent. Tr. 174-75
4. Targetmaster operates out of a building located at 255 Wilmington, Westchester Pike Room 202, Chadds Ford, Pennsylvania. Tr. 175-76.
5. Targetmaster offers several different services including a store that sells “everything relating to guns, accessories, firearms”; a shop for cleaning firearms and weapons; classrooms; a lounge; and a gun range. Tr. 176.
6. Respondent is open to the general public. Tr. 177.
7. Targetmaster admitted in its Answer to Singh’s Amended Complaint that it is a public accommodation and commercial property. O.D.
8. Targetmaster maintains a dress code that prohibits head coverings except for baseball caps facing forward. Tr. 64.
9. Milowicki testified that the main purpose of the dress code policy is safety. Tr. 227.
10. Singh is a practicing Sikh. Tr. 49.

¹ Explanation of Abbreviations:

Tr. – Hearing Transcript

PHRC Ex. – Complainants Exhibit

Commission. Ex. – Commission Exhibits

R. Ex. – Respondent’s Exhibit

O.D.- Official Document

11. Sikhs have five articles of faith, including maintaining uncut hair, also known as kesh, and wearing a turban, also known as a dastar, to cover their hair. Tr. 51.
12. As a member of the Sikh faith, Singh wears multiple articles of faith, including a turban.
Id.
13. Singh wears his turban every single day, and there are no circumstances in which he has removed his turban in public. Tr. 52.
14. There are also no circumstances during his daily activities in which Singh would cover his turban. *Id.*
15. Singh went to Targetmaster to purchase ammunition. Tr. 56.
16. Upon entering Targetmaster, Singh was approached by an employee who pointed to his own head who said, “that’s not welcomed here. You can’t have that here.” *Id.*
17. Singh explained that he was wearing his turban for religious purposes and that he “can’t just take it off.” *Id.*
18. Singh was offered two options: telling Respondent’s employee what he wanted [to purchase] and then going outside and waiting for the employee to bring it to Singh’s car or covering his turban with a baseball cap. Tr. 60-1.
19. Singh left the store following this conversation with Respondent’s employee. Tr. 61.
20. Approximately fifteen minutes after Singh left Targetmaster, he called Respondent’s public phone number that he found on its Google listing. Tr. 62-3.
21. When the person on the other end picked up the phone, “they identified themselves as Targetmaster.” and Singh “asked to speak with the manager.” Tr 63.
22. Singh asked the individual on the phone if it were true that someone wearing a religious headgear could not shop in the store. The man on the line stated in a loud tone

that it had nothing to do with religion and repeated that a couple times and he immediately said, what are we supposed to do if a monk walked in with a 20-foot sword? *Id.*

23. At the time of the event, Singh was about to begin his junior year at Widener University in its nursing program; prior to the event, Singh maintained a 3.8 Grade Point Average (GPA). Tr. 76.
24. After the event, Singh developed anxiety and had a hard time in school. Tr. 75.
25. The semester following the event, Singh earned a 2.9 GPA. Tr. 78.
26. Singh graduated from college with a GPA below 3.5. Tr. 77.
27. While in college, Singh drove for Uber and DoorDash. Tr. 80.
28. Prior to the event at Respondent, Singh worked 20 to 30 hours a week and made between \$3,000.00 to \$4,000.00 a month. Tr. 82.
29. Singh testified that after the event it was harder for him to work because he was falling behind in school, so [he] to focus more time on studying. Tr. 80
30. Following the event, Singh worked a third less than [he] normally would have worked and made approximately \$2,500.00 to \$3,000.00 a month. Tr. 82
31. Singh testified that he had to give back three overtime shifts he had picked up at work because he had to prepare for and attend the public hearing. Tr. 85
32. If Singh had worked those shifts, he would have made an additional \$4,300.00. Tr. 85-6.
33. Martin has practiced Islam for nearly seven years. Tr. 156.
34. Martin wears a hijab—a religious head covering worn by Muslim women—in addition to other clothing, which she described as an over garment, designed to conceal her body in adherence to Islamic teachings on modesty Tr. 156-57.

35. Martin visited Targetmaster to purchase a firearm. Tr.159-60.
36. An employee demanded Martin remove her religious head covering to remain on the premises, even upon learning she wore her head covering for religious purposes. Tr.162.
37. Martin refused to remove her hijab and left. Tr.163.
38. Martin described her visit to Respondent in 2023 as “horrible.” Tr. 171.
39. She further testified that the experience made her feel “low” “disgusted” “humiliated” and “embarrassed.” *Id.*

CONCLUSIONS Of LAW

1. The PHRC has jurisdiction over Complainants, Respondent, and the subject matter of the Complaints under the Pennsylvania Human Relations Act (PHRA or the Act).
2. The parties and the PHRC have fully complied with the procedural prerequisites to convene a Public Hearing.
3. Complainants are persons within the meaning of the Act.
4. Respondent is a person within the meaning of the Act.
5. Targetmaster is a public accommodation for purposes of PHRA Section 5(i).
6. Targetmaster is also a commercial property for purposes of PHRA Section 5(h).
7. Pennsylvania enacted the PHRA to prevent and eliminate unlawful discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability in various settings, including public accommodations and commercial property.
8. The term religious creed as used in the PHRA, includes all aspects of religious observance, practice or belief.
9. Religious creed discrimination includes the failure to provide a reasonable accommodation for religious observance or practice.
10. An employer, housing provider, public accommodation or person covered under the PHRA and the PFEOA may assert an undue hardship defense to the request for a reasonable accommodation.
11. The PHRA is to be interpreted as identical to federal anti-discrimination laws except where there is something specifically different in its language requiring that it be treated differently.
12. Section 5(i) of the PHRA is analogous to Title II of the Civil Rights Act of 1964.

13. Courts have established a framework to evaluate religious accommodation cases that is modeled after the shifting burdens of proof employed in race and gender discrimination suits under Title VII.

14. To establish a prima facie case for failure to accommodate a complainant must show:

- (a) they have a bona fide religious belief that conflicts with Respondent's policy;
- (b) they informed the Respondent of this belief;
- (c) they were refused service for failure to comply with the conflicting policy.

15. Both Singh and Martin have established a prima facie case for failure to provide a religious accommodation.

16. Once Complainants established a prima facie case of discrimination, the burden shifted to Respondent to show either that it made a good faith effort to accommodate Complainants or that it could not reasonably accommodate Complainants without incurring an undue hardship.

17. Targetmaster failed to establish that it could not reasonably accommodate Complainants without incurring an undue hardship.

18 A complainant can also establish a prima facie case of discrimination by showing:

- (a). he/she is a member of a protected class;
- (b). the respondent had knowledge of the complainant's membership in a protected class;
- (c). he/she attempted to access the accommodation of the respondent;
- (d) respondent denied access or use of the accommodation to the complainant while;
- (e) leaving the accommodation open and available to others who do not belong to

complainant's protected class.

19, Both Singh and Martin have established a prima facie case of discrimination based on religious creed.

20. Once Complainants showed a prima facie case of discrimination, the burden shifted to Respondent to offer a legitimate non-discriminatory reason for the denial.
21. Respondent offered a legitimate non-discriminatory reason for the denial; Complainants' refusal to comply with Respondent's dress code policy which was created for safety reasons.
22. Once Respondent offered a legitimate non-discriminatory reason for the denial, the burden shifted back to Complainants to show that the Respondent's proffered reason was pretext for unlawful discrimination.
23. Complainants successfully showed that Respondent's proffered reason was pretext for unlawful discrimination.
24. Complainants are entitled to damages.

OPINION

These consolidated cases arise out of Complaints filed by Karanveer Singh (Singh) and Myeshia Martin (Martin)(or collectively Complainants) against Tommy Gun, Inc. d/b/a Targetmaster (Respondent or Targetmaster). Singh’s PHRC Complaint was filed on or about January 22, 2022, at PHRC Case Number 202101691. Both Complaints alleged that Respondent discriminated against Complainants because of their religious creed by denying them access and use because Complainants refused to remove head coverings worn for religious purposes. Respondent filed Answers in both cases denying the allegations set forth in the Complaints.

The Pennsylvania Human Relations Commission (PHRC or Commission) investigated and found probable cause in both cases. Conciliation efforts were unsuccessful and both cases were placed on the public hearing docket. The Hearing Examiner consolidated the cases in January 2024 because they involved common questions of fact and law, named the same Respondent and sought similar relief. All parties waived their right to an in person hearing and a virtual hearing was held on May 9, 2024 via Microsoft Teams. Singh was represented by Hogan Lovells US LLP and the Sikh Coalition. Martin was represented by Timothy Welbeck, Esq. and Respondent was represented by Michael Hawley, Esq. Morgan Williams, Esq. and Dana Prince, Esq. represented the Commonwealth’s interest in the Complaints. The parties submitted post-hearing briefs in July 2024. Respondent was permitted to submit a reply brief on the issue of attorneys’ fees in August 2024.

Pennsylvania enacted the Pennsylvania Human Relations Act (PHRA) to prevent and eliminate unlawful discrimination on the basis of “race, color, religious creed, ancestry, age, sex, national origin, handicap or disability” in various contexts, including public accommodations

and commercial property. See generally 43 P.S. §§ 952, 955. In its Answer to Singh's Amended Complaint, Respondent admitted it is a commercial property and public accommodation.

Therefore, three provisions of the PHRA are applicable: Sections 5(h)(1), 5(h)(3) and 5(i)(1).

In pertinent part, Section 5(h) makes it an unlawful discriminatory practice for any person to

(1) [r]efuse to sell, lease, finance or otherwise to deny or withhold any ... commercial property from any person because of the race, color, ... religious creed, ancestry, ... [or] national origin . . . of any person, prospective owner, occupant or user of such housing accommodation or commercial property.”

(3) to “[d]iscriminate against any person ... in furnishing facilities, services or privileges in connection with the ownership, occupancy or use of any ... commercial property because of the race, color, ... religious creed, ancestry ... [or] national origin ... of any person.

Similarly, Section 5(i)(1) makes it an unlawful discriminatory practice, for any person being the owner, lessee, proprietor, manager, superintendent, agent or employe of any public accommodation. . . to refuse, withhold from, or deny to any person because of his. . . religious creed, ancestry or national origin. . . either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such place of public accommodation. . .

Religious creed discrimination includes the failure to provide a reasonable accommodation for religious observance or practice. 16 Pa. Code § 41.205(b). An employer, housing provider, public accommodation or person covered under the PHRA and the PFEOA may assert an undue hardship defense to the request for a reasonable accommodation. 16 Pa. Code § 41.205(c).

In their post-hearing briefs, Singh and Martin allege that Respondent discriminated against them by failing to provide a reasonable accommodation and by treating them differently

based on their religion, The Commission could find no Pennsylvania case law addressing how complainants can establish religious discrimination in the context of public accommodations or commercial property. In the absence of Pennsylvania case law, it is “appropriate to look to federal decisions involving similar federal statutes for guidance.” *City of Pittsburgh Comm’n on Hum. Rels.*, 782 A.2d at 592, n.8. The Commission finds it appropriate to use the legal standards set forth under Title II and Title VII of the Civil Rights Act of 1964. While Title II prohibits discrimination by places of public accommodation, The Commission could find no cases under Title II involving requests for reasonable accommodation and thus relied on Title VII for that claim.

I. Failure To Accommodate

To establish a prima facie case of a refusal to provide a religious accommodation Complainants must show by a preponderance of the evidence that: (1) they have a bona fide religious belief that conflicts with Respondent’s policy; (2) they informed the Respondent of this belief; (3) they were refused service for failure to comply with the conflicting policy.

Here, the policy at issue is Respondent’s dress code, which only permitted patrons to wear forward facing baseball caps. Any other headwear had to be removed or covered with a baseball cap.

Singh testified that he is an Indian man who has been practicing Sikhism his entire life. Singh further testified that one of his articles of faith is to wear a turban or dastar, to cover his unshorn hair. Tr. 50-1. He explained how, for Sikhs like himself, the turban is an integral part of his Sikh identity. Tr. 51. Singh testified that he wears his turban “every single day,” noting that there are no circumstances in which he would remove his turban in public or cover his turban in the course of his daily activities. Tr.51-2. This testimony satisfies the first element.

Singh also testified that he informed Respondent's employee that he wears the turban for religious purposes and that he could not just take it off. Tr. 56. This testimony satisfies element two. As to element three, Singh testified that he left the store because he felt he had to choose between his religious beliefs or patronizing Respondent. Tr. 61-2. Milowicki, testified that the dress code was posted outside the store entrance so that people knew what the rules were and had a choice to either come in or leave if they did not abide by it. Tr. 201. However, this response is contrary to what anti-discrimination laws require. The U.S. Supreme Court has held,

Title VII does not demand mere neutrality with regard to religious practices—that they be treated no worse than other practices. Rather, it gives them favored treatment... An employer is surely entitled to have, for example, a no-headwear policy as an ordinary matter. But when an applicant requires an accommodation as an aspect of religious ... practice," it is no response that the subsequent fail[ure] ... to hire" was due to an otherwise-neutral policy. Title VII requires otherwise-neutral policies to give way to the need for an accommodation.

E.E.O.C. v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768, 775, 135 S. Ct. 2028, 2034, 192 L.

Ed. 2d 35 (2015) (internal quotations omitted). The same principle applies in this case.

Respondent can have a dress code but must provide religious accommodations. Therefore, element three is satisfied.

Since Singh established a prima facie case, the burden shifts to Respondent "to show either (1) it made a good-faith effort to reasonably accommodate the religious belief, or (2) such an accommodation would work an undue hardship..." *Mathis v. Christian Heating & Air Conditioning, Inc.*, 158 F. Supp. 3d 317, 329 (E.D. Pa. 2016) citing *E.E.O.C. v. GEO Grp., Inc.*, 616 F.3d 265, 271 (3d Cir. 2010). The Respondent failed to raise either of these arguments. The Commission notes that Singh testified that Respondent's employee offered to bring him his

products out to his car “as a favor.”² Tr 60-1. The Commission does not find this offer to be a good faith effort by Respondent to accommodate Singh because the record shows the employee made this offer because he had an Indian wife. Tr. 57. Since Respondent failed to satisfy its burden, Singh is entitled to damages on his failure to accommodate claim.

Martin testified credibly that within minutes of entering Respondent to purchase a firearm, an employee told her that she had to remove her scarf if she was going to be in the store. She explained that she wears the scarf as part of her religion, and it don’t come off. Tr. 160.³ Martin further testified that the employee told her that if she didn’t take scarf off then she could not be in the store. *Id.* This testimony establishes a prima facie case. Respondent offered no evidence that it either made a good faith effort to accommodate Martin or that it would have been an undue burden to accommodate Martin. Therefore, Martin is also entitled to damages on her failure to accommodate claim.

II. Disparate Treatment

Complainants argue that they should also prevail because Respondent treated them differently based on their religion. Complainants can prove disparate treatment claims using direct evidence or circumstantial evidence. In the absence of direct evidence, courts apply the burden shifting framework like the one applied in religious accommodation cases discussed above. Complainant must establish a prima facie case and then the burden of production shifts to Respondent. However, if there is direct evidence this burden-shifting framework is inapplicable. Direct evidence of discrimination is evidence that is so revealing of a discriminatory animus that it is not necessary for the plaintiff to rely on a presumption from his prima facie case to shift the

² Respondent objected to Singh’s testimony regarding his conversation with the employee as hearsay. Tr. 57. The Hearing Examiner provisionally admitted the testimony. Tr. 58. Upon review of the entire record, the Hearing Examiner found that the testimony was admissible pursuant to Pa. R.E. 803(25).

³ Martin used the word scarf interchangeably with hijab.

burden to defendant. See *Prise v. Alterwoods Grp., Inc.*, 657 F.Supp.2d 564, 587 (W.D. Pa. 2009).

In his post-hearing brief, Singh argues that there are three examples of direct evidence. One, when Respondent's employee "pointed to his own head, and he said, that's not welcomed here. You can't have that here." Tr. 56. Two, Respondent's store manager saying "what are we supposed to do if a monk walked in with a 20-foot sword" in response to Singh's inquiry whether it was true that if someone wears religious headgear they can't shop in the store. Tr. 63. Three, Respondent's employee's offer to bring the products Singh wanted out to his car "as a favor" instead of serving him in the store.

It is a high hurdle for Plaintiffs to prove discrimination through direct evidence. *Wareham v. Dollar Bank*, 937 F. Supp. 2d 656, 682 (W.D. Pa. 2013). The Third Circuit has "repeatedly looked to Justice O'Connors' concurrence in *Price Waterhouse v. Hopkins*, 490 U.S. 228, 277, 109 S.Ct. 1775, 104 L.Ed.2d 268 (1989), for guidance as to the type of evidence required to establish direct evidence of discrimination.⁴ *Id.* at 683. Specifically,

[S]tray remarks in the workplace, while perhaps probative of [a discriminatory animus], cannot justify requiring the employer to prove that its [employment] decisions were based on legitimate criteria. Nor can statements by non-decisionmakers, or statements by decisionmakers unrelated to the decisional process itself, suffice to satisfy the plaintiff's burden in this regard.

Wareham v. Dollar Bank, 937 F. Supp. 2d 656, 683 (W.D. Pa. 2013)(quoting *Price Waterhouse*, 490 U.S. at 277, 109 S.Ct. 1775). While neither of these cases are directly applicable because they

⁴ The Court in *Wareham* noted that Congress amended Title VII in 1991 to set forth standards applicable to mixed-motive cases under Title VII, partly in response to the Supreme Court's decision in *Price Waterhouse*, but that the court of appeals and district courts in the [Third Circuit] have continued to apply Justice O'Connor's standard as to what constitutes direct evidence of discrimination in cases brought under the ADEA and Section 1981. Therefore, the Court found this standard to be good law. The Commission is persuaded by this reasoning and adopts it.

involved employment disputes, the Commission found these cases helpful in evaluating Singh's arguments.

The Commission finds that none of Singh's proffered evidence constitutes direct evidence of discrimination when analyzed using the standard in *Price Waterhouse*. The evidence shows that it was Respondent's employee, not a decisionmaker, who told Singh his turban was not welcome here and that the employee "had to do the same thing to white dudes with biker helmets and black guys with durags." Tr. 57. It was that same employee who offered to take the products Singh wanted outside to Singh's car. Regarding the manager's statement, the record is silent as to the organizational structure of Respondent and whether the manager was a decisionmaker regarding the dress code policy. Also, the statement by the store manager was made after Singh left the store so it could not have been part of the decisional process. Since there is no direct evidence of discrimination, the Commission will now analyze Singh's claim using a burden shifting framework. Since Martin did not allege that there was direct evidence, her claim will also be analyzed using this framework. Therefore, the Commission will analyze the claims simultaneously.

To establish a prima facie case, Complainants must show that 1) they are a member of a protected class; (2) that the Respondent was aware of their protected class; 3) they attempted to access the accommodation of the Respondent; (4) Respondent denied access or use of the accommodation to the Complainants while; (5) leaving the accommodation open and available to others who do not belong to their protected class. See *Shumate v. Twin Tier Hosp., LLC*, 655 F. Supp. 2d 521, 537 (M.D. Pa. 2009)(case addressed the public accommodations provisions of Title II of the Civil Rights Act of 1964). As discussed above, religion is a protected class in Pennsylvania. It is undisputed that Singh is Sikh and Martin is

Muslim. It is also undisputed that both Complainants told Respondent's employee that they wore head coverings for religious purposes. Therefore, Respondent was aware of their protected class. Regarding element 3, Singh testified that he tried to purchase ammunition at the Respondent. Tr. 54. Martin testified that she entered Respondent to purchase a firearm. Tr. 159-60. Therefore, Complainants have satisfied element 3. Regarding element 4, Milowicki, admitted that Complainants were denied services with their religious headgear. Tr. 180-81. Finally, it is undisputed that Respondent remained open to those who did not wear headgear for religious purposes. Therefore, Singh and Martin have both established a prima facie case.

Since Complainants have established a prima facie case, the Respondent must produce a legitimate non-discriminatory reason for its actions. It is undisputed that Complainants refused to comply with Respondent's dress code. Milowicki, testified that the reason for the dress code was safety. Tr. 227. The Commission finds that this evidence satisfies Respondent's burden.

Once Respondent provides a legitimate non-discriminatory reason for its action, the burden shifts back to Complainants to show that Respondent's stated reason is pretext for discrimination. To show that Respondent's reason is pretext, Complainants must demonstrate "such weaknesses, implausibilities, inconsistencies, incoherencies or contradictions in [] proffered reason for [] actions that a reasonable factfinder could find it unworthy of credence." *Krouse, v. American Sterilizer Co.*, 126 F.3d 494, 504 (internal quotation marks omitted).

Milowicki testified that only a baseball hat was permitted ...["t]hat way, if somebody has to have a hat on with a head thing, it doesn't have any ruffles or anything to catch shells." Tr.187. This reason is unworthy of credence in this case because the evidence shows that the Complainants were only trying to access the store; not the range so there was no risk of anything

catching shells. Thus, the Complainants have shown that the Respondent's proffered reason was pretext. Therefore, the Commission now turns to remedies.

IV. Remedies

Section 9(f) of the PHRA provides in pertinent part:

If, upon all the evidence at the hearing, the Commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this Act, the Commission shall state its finding of fact, and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to reimbursement of certifiable travel expenses in matters involving the complaint, hiring, reinstatement...with or without back pay...and any other verifiable, reasonable out-of-pocket expenses caused by such unlawful discriminatory practice...as, in the judgment of the Commission, will effectuate the purposes of this act, and including a requirement for report of the manner of compliance.

In their post-hearing briefs Complainants sought the following relief: an injunction, damages caused by the humiliation and embarrassment, a civil penalty against Respondent and attorneys' fees and costs. Singh also sought out of pocket expenses and 6% interest per annum on any award from the date of the Commission's order until payment is made in full. Singh sought the following amounts: \$15,500.00 for out-of-pocket expenses; \$90,000-\$190,000.00 adjusted for inflation for emotional distress; \$10,000.00 for a civil penalty, \$267,932.00 in attorneys' fees and \$8,381.24 in costs. Martin requested the following amounts: \$20,000.00-\$25,000.00 in emotional distress, \$10,000.00 for a civil penalty and \$13,508.45 in attorneys' fees and costs.

A. Injunctive Relief

Complainants request that the Commission issue an order requiring Respondent to cease its unlawful discriminatory practice of failing to provide religious accommodations to its dress code policy. The Commission agrees this remedy is appropriate.

B. Singh's Actual Damages

We next address the out-of-pocket damages that Singh has suffered and whether they are “verifiable, reasonable out-of-pocket expenses” per the PHRA. The function of the remedy in a discrimination case is to make a Complainant whole by returning the Complainant to the position in which he or she would have been, absent the discriminatory practice. See *Albermarle Paper Co. v. Moody*, 422 U.S. 405, 418-19. Any uncertainty in an estimation of damages must be borne by the wrongdoer, rather than the victim since the wrongdoer caused the damages. See *Green v. USX Corp.*, 46 FEP Cases 720 (3rd Cir. 1988).

Singh requested 15,500.00 in out-of-pocket expenses; \$7,500.00 for the loan he took out for his education during his junior year of college and \$8,000.00 for his lost income during his junior year. Singh argues that because of Respondent’s unlawful conduct and the impact it had on him, he was unable to participate in activities like socializing, joining clubs, and being involved on campus and as a result he lost the benefit of his bargain and was denied the full college experience that he paid for. Tr. 83-4. We reject the contention that Singh is to be compensated \$7,500.00 for the loan because there is no evidence that he would not have taken out this loan.

Regarding his lost income, Singh testified, while in college, he drove for Uber and DoorDash. Prior to the discrimination, he worked 20 to 30 hours a week for these companies, Tr. 80 and made between “three to \$4,000 a month.” Tr. 82. Following the discrimination, Singh testified that he worked a third less than [he] normally would have worked and made [2500] to like maybe [3000] a month. Tr. 81-82. Singh testified that this difference was because it was substantially more difficult for him to work since he “was falling behind in school, [and] had to focus more time on studying.” Tr. 80. The Commission awards Singh \$8,000.00 for this loss of

income. Singh also testified about how he had to give back overtime shifts he picked up at work because he had to prepare for and attend the public hearing. Tr. 85. If Singh had worked those shifts, he would have made an additional \$4,300.00. Tr. 85-6. The Commission finds it is appropriate to include this loss in the calculation. Finally, the Commission will award Singh 6% interest on his out-of-pocket expenses. The calculation is below.

\$8,000.00 for lost wages during college + \$4,300.00 for lost wages for overtime = \$12,300.00

12,300.00 x 6% = \$738.00 interest

Grand total =\$13,038.00

Singh also requests damages for humiliation and embarrassment in the amount of \$90,000-\$190,000 adjusted for inflation. Calculating emotional distress damages is difficult and not unique to this Commission. Courts have held that the size of an intangible damage award is largely intuitive and is a matter over which the jury or the trial judge sitting without a jury has a great deal of discretion. *Laudon v. Loos*, 694 F. Supp. 253, 255 (E.D. Mich. 1988). The main factors that the Commission considers when determining the amount for emotional distress are summarized as follows: (1) Whether complainant suffered physical harm or threat of physical harm in addition to harm to their mental health; (2) The nature of the evidence offered to describe the harm (e.g. testimony by the complainant, testimony by others, expert testimony); (3) Whether complainant sought or otherwise received treatment for the injury; (4) Whether the discrimination was a single act or was ongoing; and (5) Whether the complainant was particularly susceptible to being injured by discrimination due to their personal history. These factors are not an exclusive list. Singh testified,

[i]t will take me a lot longer to finish assignments. In addition, the assignments that would normally be a lot easier for me would take a little bit. I would think about this experience because I just never had experience anything like this. So you know, I just - there was a lot of

reflecting of how I would fit into society, how I would keep my religion and also fit into society so I don't have to relive the same experience. So assignments became harder, my grades dropped, and it was just very - it was a very hard time. And I think about that experience every single day until now. Even in my professional work life, this is always on my mind. Tr.75.

Upon review of the aforementioned factors, there was no additional corroborating evidence provided that would support an award at the level requested by Singh. There was no testimony relating to having received treatment for his physical or mental health. No additional witness testimony was provided about Singh's emotional distress and the discrimination was a single act. However, it was apparent that what Singh experienced was distressing. It negatively impacted his academic performance and has had a lasting and continuing negative impact on his life. Therefore, the Commission awards Singh \$28,000.00 for the embarrassment and humiliation he suffered.

C. Martin's Request for Actual Damages

The Commission will next address Martin's request for actual damages. Martin only requested damages for embarrassment and humiliation. Therefore, the Commission will utilize the factors listed in the preceding section. Martin described her visit to Respondent in 2023 as "horrible." Tr 171. She further testified that the experience made her feel "low" "disgusted" "humiliated" and "embarrassed." *Id.* She has not visited another gun store because "the situation that happened was just discouraging to me to even want to go into another store." Tr. 164.

Upon review of the aforementioned factors, there was no additional corroborating evidence provided. There was no testimony relating to Martin having received treatment for her physical or mental health. No additional witness testimony was provided about Martin's emotional distress and the discrimination was a single act. Yet, it was apparent that what Martin

experienced has negatively impacted her life. Therefore, the Commission awards Martin \$15,000.00 for the embarrassment and humiliation she suffered.

D. Civil Penalty Against Respondent

Turning to the civil penalties requested by Complainants, Section 9(f)(2) of the PHRA provides in pertinent part: “Such order may also assess a civil penalty against the respondent in a complaint of discrimination filed under Sections 5(h) or 5.3 of this Act: (i) in an amount not exceeding ten thousand dollars (\$10,000.00) if the respondent has not been adjudged to have committed any prior discriminatory practice...”.

When determining the amount of the civil penalty, the factors to consider are: "the nature and circumstances of the violation, the degree of culpability, any history of prior violations, the financial circumstances of that Respondent and the goal of deterrence, and other matters as justice may require." *HUD v. Weber*, P-H, Fair Hous.Fair Lend., §25,041 (HUD ALJ, 1993).

Here, the evidence establishes that Targetmaster acted discriminatorily in 2021 and 2023 when it refused to provide a reasonable accommodation to the dress code policy for the Complainants. However, the record shows that the Respondent only has one location and there is nothing in the record describing Respondent’s financial circumstances. Finally, while Milowicki admitted that there have been court cases filed against Targetmaster, the transcript does not contain any information regarding the outcome of those cases. The Commission finds a civil penalty of \$5,000.00 per case for a total of \$10,000.00 is appropriate.

E. Attorneys’ Fees and Costs

Section 959(f.1) of the PHRA provides in part:

If, upon all the evidence at the hearing, in those cases alleging a violation of section 5(d), (e), (h) or 5.3 where the underlying complaint is a violation of section 5(h) or 5.3, the Commission finds that a respondent has engaged in or is

engaging in any unlawful discriminatory practice as defined in this act, the Commission may award attorney fees and costs to prevailing complainants.

The Hearing Examiner permitted Complainants to submit information regarding attorneys' fees as part of their post-hearing briefs instead of at hearing. Tr. 152-53. The Hearing Examiner also permitted Respondent to file a reply on the issue of fees.

In their post-hearing briefs, Singh requested \$267,932.00 in attorneys' fees and \$8,381.24 in costs and Martin requested \$13,504.48 in attorneys' fees and costs. Respondent filed a reply brief. In its reply, Respondent objected to the requested fees on multiple grounds including that there was no evidence regarding fees introduced at hearing. The Commission finds the argument unpersuasive since Respondent did not object to Complainants filing this information via brief during the public hearing and was permitted to file a reply.

In *Harris II v. Cupani and Tamalonis*, Docket No. H6571 (1997), this Commission addressed the issue of awarding attorneys' fees to complainants.⁵ In *Harris II*, the Commission required the complainant to file "a fee application with sufficient information upon which to assess an appropriate award." The application had to be submitted by affidavit or certification. The Commission gave respondents 10 days to file counter affidavits. The Commission further described the factors it would consider when evaluating fee requests.

Unless adequate supporting evidence is submitted, an attorney fee award will not be made. Consideration will be given to time and labor required; the difficulty of the questions involved in this case; the requisite skill to perform the legal services rendered; [Complainant's] attorney's customary fee; the hourly rate for legal services in the community; the amount of the claim involved and the results obtained; the experience, reputation, and ability of an attorney; whether a contingency arrangement was in place; and the size of awards in similar cases.

In the instant case, Martin's attorney did not submit a fee application. Therefore, the Commission finds she is not entitled to any fees. While Singh's attorneys did submit a detailed

⁵ This case can be accessed via the Commission's website.

fee application, the Commission finds the requested amount of \$267,932.00 unreasonable for two reasons. First, the fee application listed hours for eight attorneys. This number of attorneys is excessive especially given that Martin who had a similar case had only one attorney. The amount requested is also unreasonable since it is more than five times the amount the Commission is awarding Singh in damages. The Commission finds \$20,000.00 in fees appropriate. Regarding costs, the Commission finds it appropriate to award \$3,060.55 which includes \$1,000 for Singh's firearms training and safety expert, and \$2,060.55 for depositions of Singh and Milowicki. An order follows.

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

Karanveer Singh,	:	
Complainant	:	
v.	:	PHRC Case No. 202101691
	:	
Tommy Gun Inc. d/b/a Targetmaster,	:	
Respondent	:	

Myeshia Martin	:	
Complainant	:	
v.	:	PHRC Case No. 202300175
	:	
Tommy Gun Inc. d/b/a Targetmaster,	:	
Respondent	:	

RECOMMENDATION OF THE PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned matter, the Permanent Hearing Examiner finds that Singh and Martin have proven that Respondent discriminated against them by refusing to make a reasonable accommodation to its dress code policy in violation of Sections 5(h) and 5(i) of the PHRA. It is, therefore, the Permanent Hearing Examiner's recommendation that the attached Findings of Fact, Conclusions of Law, and Opinion be approved and adopted. If so, approved and adopted, the Permanent Hearing Examiner further recommends issuance of the attached Final Order.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

Darlene Hemerka

Darlene Hemerka, Permanent Hearing Examiner

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
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Respondent	:	

Myeshia Martin	:	
Complainant	:	
v.	:	PHRC Case No. 202300175
	:	
Tommy Gun Inc. d/b/a Targetmaster,	:	
Respondent	:	

FINAL ORDER

AND NOW, this 25th day of November, 2024, after a review of the entire record in this matter, the Pennsylvania Human Relations Commission, pursuant to Section 9 of the Pennsylvania Human Relations Act, hereby approves the foregoing Findings of Fact, Conclusions of Law, and Opinion of the Permanent Hearing Examiner. Further, the Commission adopts said Findings of Fact, Conclusions of Law, and Opinion into the permanent record of this proceeding, to be served on the parties to the Complaints and hereby

ORDERS

1. That Tommy Gun Inc. d/b/a Targetmaster (Respondent) cease and desist from failing to provide reasonable accommodations to its dress code policy for patrons who need them because of their religion.
2. That, within sixty (60) days of the effective date of this Order, Respondent shall pay


Karanveer Singh the lump sum of \$64,098.55⁶ which amount represents out-of-pocket expenses, compensatory damages of embarrassment and humiliation Singh suffered and attorneys' fees and costs.

3. That, within sixty (60) days of the effective date of this Order, Respondent shall pay Myeshia Martin the lump sum of \$15,000.00 which amount represents compensatory damages of embarrassment and humiliation Martin suffered.
4. That, within sixty (60) days of the effective date of this Order, Respondents shall deliver to PHRC Counsel, Dana Prince, a check payable to the Commonwealth of Pennsylvania, in the amount of \$10,000.00, which represents an assessment of a civil penalty pursuant to Section 9(f)(2)(i) of the PHRA.
5. That, within sixty (60) days of the effective date of this Order, Respondent shall report to the PHRC on the manner of their compliance with the terms of this Order by letter addressed to Dana Prince, Assistant Chief Counsel, Pennsylvania Human Relations Commission, 110 N. 8th St. Ste. 501 Philadelphia PA 19107.

⁶ A prior final order had Complainant Singh's damages award as \$63,098.55. However, the total of the amounts for Singh listed in the recommendation equals \$64,098.55 This revised order corrects this typographical error only; all findings remain unchanged. See *Kentucky Fried Chicken of Altoona, Inc. v. Unemployment Compensation Board of Review*, 10 Pa. Cmwlth 90 (An administrative agency may, on its own motion, having provided the proper notice and explanation, correct typographical, clerical, and mechanical errors obviated and supported by the record. It may likewise correct undisputed factual errors and factual misconceptions.). On November 8, 2024, The Office of the Hearing Examiner notified the parties via e-mail that it would be bringing this issue to the attention of the Commissioners.

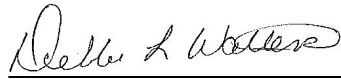
6. That this signed Order supersedes the October 28, 2024, Final Order in this matter in its entirety.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

BY: 

M. Joel Bolstein
Chairperson

Attest:



O/B/O Commissioner Mayur Patel