

In the Matter of

NEHIA, INC., dba The Turquoise Room,

William J. Sahli, and Robert L. Hayes,

Case No. 01-75

Final Order of Commissioner Bill Stevenson

Issued June 30, 1975ⁱ

SYNOPSIS

Where Respondent, a public accommodation (night club), and an independent contractor (a security provider) and his employee, checked age identification so as to exclude black persons and racially mixed groups from the club, the Commissioner found that the Respondents violated ORS 659.010(14) by discriminating against persons because of their race and color and because of the mixed racial makeup of the group they were with. ORS 659.010(14), 659.037, 30.675(1).

The above entitled matter having come on regularly for hearing before Russell M. Heath, designated Presiding Officer by the Commissioner of the Oregon Bureau of Labor, on February 24, 1975, pursuant to notice to all of the named parties; Albert L. Menashe, Assistant Attorney General, appeared on behalf of the Agency and each of the individual Complainants; William McGeorge, attorney, appeared on behalf of the Respondent, Nehia, Inc., an Oregon corporation; the Respondent William J. Sahli arrived at the hearing some minutes late and appeared on his own behalf and represented himself; and the Presiding Officer heard the witnesses called on behalf of the parties and on behalf of the Agency and the Complainants, and considered the exhibits duly received and arguments of counsel and the parties, and issued his Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order.

Thereafter, the Presiding Officer's Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order were served on each of the parties herein adversely affected thereby; and the Respondent Nehia, Inc., having filed objections and exceptions to the Presiding Officer's Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order, and the Respondents Robert L. Hayes and William J. Sahli not having filed any objections or exceptions thereto and;

The Commissioner of Labor having personally considered the whole record and the objections and exceptions filed by Nehia, Inc. and the relevant portions of the record pertaining thereto and being otherwise fully advised in the premises, hereby makes and enters his Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Procedural Findings

1. John B. Robinson, a black man, on or about May 30, 1972, signed and filed with the Oregon Bureau of Labor Civil Rights Division, a complaint of discrimination on a form provided by the said Division. His signature was notarized by Notary Public Walter P. Williams. Mr. Robinson alleged in the complaint that on or about April 1972, he had been discriminated against by the Turquoise Room in that he had been denied admittance thereto because of his race and color.

2. Sharon E. Coleman, a black woman, on or about November 1, 1972, signed and filed with the Oregon Bureau of Labor Civil Rights Division, a complaint of discrimination on the form provided by said Division. Her signature was notarized by Notary Public Walter P. Williams. Ms. Coleman alleged in the complaint that on or about May 1972, she had been discriminated against by the Turquoise Room in that she had been harassed before finally being admitted and that such harassment was because of her race and color.

3. Floyd S. Davidson, a black man, on or about June 5, 1972, signed and filed with the Oregon Bureau of Labor Civil Rights Division, a complaint of discrimination on a form provided by the said Division. His signature was notarized by Notary Public Walter P. Williams. Mr. Davidson alleged in the complaint that on or about June 2, 1972, he had been discriminated against by the Turquoise Room and William John Sahli in this his white female companion was denied admittance thereto because of his race and color.

4. The foregoing complaints and allegations contained therein were investigated by the Civil Rights Division and thereafter an administrative determination was made that there existed substantial evidence supportive of the allegations in each of the said complaints; it was further determined that as to each of the three complaints, the named respondents should be and therefore became Nehia, Inc., and Oregon corporation dba the Turquoise Room, William J. Sahli and Robert L. Hayes.

5. Subsequent efforts to resolve the complaints through conference and conciliation having failed, the Commissioner of Labor, by and through Lee Moore, acting Administrator of the Civil Rights Division, drew specific charges of discrimination against the aforementioned respondents, and each of them. Said charges and notice of hearing were duly served on the respondents, and each of them. The hearing was scheduled to convene at 9:00 A.M. February 24, 1975 in the auditorium of the Water Services Building, 510 SW Montgomery, Portland, Oregon.

6. The public hearing to determine the facts was convened at the scheduled time, date and place and was preside over at all times by Russell N. Heath, designated by the Commissioner of Labor as Presiding Officer. During the hearing, which was concluded at approximately 8:15 P.M., February 25, 1975, the named Presiding Officer ruled on motions by counsel and on the admissibility of evidence.

General Background Findings

1. The corporate respondent, Nehia, Inc., is an Oregon corporation doing business as the Turquoise Room, hereinafter referred to as "Club," a nightclub/restaurant located at 9847 SW Barbur Boulevard, Portland, Oregon. The said corporation is solely and equally owned by Messrs. Albert Maida, Dan Teeny and Ray Lukich, but Mr. Maida has during all times material herein been responsible to the corporation for the ongoing operation and management of the Club. The Club has during all times material herein, offered to the portion of the public over 21 years of age, food, beverage and entertainment. In its operation and management of the Club the corporate respondent Nehia, Inc., during the time material herein, by contract, retained the services of Oregon Statewide Security, Inc., an Oregon corporation since dissolved, for the purpose of checking identification and handling disturbances at the Club.

2. Respondent Robert L. Hayes was during all times herein material, the secretary/manager and sole owner along with his wife, Laura Janet Hayes, of the aforementioned Oregon Statewide Security, Inc. Mr. Hayes testified to the effect and I find that although the corporation was involuntarily dissolved August 17, 1973, at times prior thereto he furnished security personnel and service to many Portland area night clubs similar in nature to the Turquoise Room.

3. Respondent William J. Sahli was during all times herein material, a security guard employed by Oregon Statewide Security, Inc. and assigned to the Club for the purpose of checking patron identification and handling disturbances therein. Mr. Sahli testified and I find that although he is no longer employed by the now dissolved Oregon Statewide Security, Inc., the said Mr. Sahli is presently a security guard employed by Club Security and assigned to the Flower Drum, a Portland area night club

owned by R.A.D., Inc., which in turn is owned and operated by the owners of Nehia, Inc., Messrs. Maida, Teeny and Lukich.

Discrimination Findings

1. Complainant Floyd Davidson credibly and firmly testified to the effect and I find that during the evening on or about June 2, 1972, while accompanied by his white date, Ms. Lynn Phelps, his sister Ms. Florence Sassenet and her white date, Mr. Tyler Walthers, the said Ms. Phelps was denied admission to the Club by Mr. William Sahli purportedly because she did not produce an Oregon Liquor Control Commission (hereinafter OLCC) identification card. There was ample testimony to the effect and I find that at the time herein material, Mrs. Phelps was approximately twenty four years of age and possessed and produced on the evening in question both a certified copy of her Oregon State Board of Health Birth certificate and a valid Oregon Driver's License as evidence of her identification and age. In accord with Mr. Davidson's further testimony, I find that despite his several explicit requests of both Mr. Sahli and Mr. Don Anderson, Ms. Phelps was not permitted the opportunity to fill out and sign an OLCC Statement of Age (S-146) card. I further find that although Mr. Sahli told Mr. Davidson that they (the Club) had no such cards, the Club during the time material herein, regularly made use of such Statement of Age cards and in fact had such cards available on the evening in question. Further undisputed testimony elicited was to the effect and I find that the aforementioned Mr. Don Anderson acquiesced, both by gesture and spoken word, in Mr. Sahli's conduct resulting in Mr. Davidson's departure from the Club premises.

2. Complainant John Robinson credibly testified to the effect and I find that on a Saturday evening in April, 1972, or thereabouts, he, in the company of his white fiancée, Ms. Lois Fraser (now his wife, Mrs. Lois Robinson), and Mr. Ronnell Parker, a

black male friend visiting Portland from Washington, D.C., attempted to gain admission to the Club. I further find that Mr. Sahli denied to Mr. Robinson and his companions such admission purportedly because they did not possess or produce OLCC identification cards. Ample undisputed evidence established and I find that each member of Mr. Robinson's party was over the age of twenty-one and possessed identification to that effect but that Mr. Sahli refused to consider such alternate evidence (to OLCC cards of age identification or to permit an member of said party to fill out and sign one of the aforementioned Statement of Age cards. Mr. Robinson's testimony was corroborated in all material respects by his wife Mrs. Lois Robinson.

Complainant Sharon Coleman credibly testified to the effect and I find that on a Saturday evening during the month of June, 1972, she and Ms. Renee Johnson, visited the Club; that upon entering, Ms. Coleman was requested by Mr. Sahli to produce an OLCC identification card which she thereupon did. Ms. Coleman was then asked to produce a second piece of identification and did; she was thereafter asked to produce yet another piece of identification and did; Mr. Sahli then requested a fourth piece of identification which Ms. Coleman produced, but Mr. Sahli demanded still another piece of identification and Ms. Coleman was unable to oblige. Mr. Sahli thereupon instructed Ms. Coleman to fill out and sign the aforementioned Statement of Age card and in an admittedly emotionally upset and shaken condition Ms. Coleman said " * * * Well Goddam, what do you want, blood?" At that moment, Mr. Don Anderson instructed Mr. Sahli to let Ms. Coleman in – that she had produced enough identification. However, Ms. Coleman and her companion Ms. Johnson turned around and left the Club. Ms.

Coleman's testimony was corroborated in all material respects by Ms. Johnson and ample undisputed evidence established and I find that both Ms. Coleman and Ms. Johnson were, on the evening in question, over the age of twenty-one.

4. Respondent William J. Sahli admitted both in testimony and in a prior voluntary statement and I find, that during the time herein material, he denied to may black persons, because of their race and color, equal access to the Club. In so doing the said Mr. Sahli employed several techniques including the following:

a. Requiring that many black persons and/or their white companions produce an OLCC card as an absolute condition of admission to the Club, while granting admission to white persons unable to produce an OLCC card by allowing them to produce other evidence of age and identification and to sign an S146 Statement of Age card furnished by the Oregon Liquor Control Commission.

b. Denying Club admission to man black persons wrongly deemed by the said Mr. Sahli to be possessed of an "improper Attitude."

c. Discouraging many black persons possessing both an OLCC card and a "proper attitude" from entering the Club by subjecting them and/or their white companions to the above and other forms of harassment calculated to effect that end.

5. Respondent William J. Sahli further testified, and I find that he denied to black persons, because of their race and color access to the Club as found and recited hereinabove, pursuant to and in furtherance of explicit instructions of Robert L. Hayes, who was his employer. I so find despite contrary testimony of Mr. Hayes and several of his friends and past employees to the general effect that the said Mr. Hayes never issued such instructions and/or that he personally harbored no "ill-will" toward black persons generally.

I accord weight to Mr. Sahli's testimony in this regard, as opposed to contrary testimony for the following reasons:

a. Mr. Sahli's motive to falsely implicate Mr. Hayes, whom he admittedly dislikes for non-payment of wages, is insufficient to alter my clear impression that Mr. Sahli's demeanor, appearance and manner of

testifying indicated he was honestly if reluctantly, and at times angrily, reciting the truth as to both his own conduct and that of Mr. Hayes.

b. Mr. Hayes's motive to falsely deny that he instructed Mr. Sahli to discriminate against black persons is clear and understandable. More importantly however, Mr. Hayes's demeanor coupled with his evasive manner of testifying, created in my judgment, determinative doubt as to his veracity. Finally, I found it disturbingly noteworthy that although Mr. Hayes adamantly voiced his "good-will" toward black persons, he clearly testified to the effect that he found nothing wrong with referring to black persons as "niggers." This testimony, taken in its best light reveals an anachronistic insensitivity to black persons' rights as equal humans; taken in its worst light it conceals a racially prejudiced mentality; regardless, I find this testimony contradictory to Mr. Hayes' avowed "good-will" toward black persons.

c. Deborah Metzintine, a former office employee of Mr. Hayes at Oregon Statewide Security, Inc., convincingly testified that she attended company meetings presided over by Mr. Hayes during which the said Mr. Hayes instructed his security guards assigned to the Club to require black persons to produce an OLCC card and if they did not produce such a card, to require three pieces of descriptive identification "* * * and then attempt to find something wrong with it to refuse admittance." In addition, Ms. Metzintine testified that she heard Mr. Hayes on more than one occasion refer to black persons in a derogatory manner. This testimony corroborates the earlier testimony of Mr. Sahli.

d. Three friends and/or prior employees of Mr. Hayes called to testify on his behalf were unconvincing in their demeanor and manner of testifying and I was unable to accord weight to their voluntary testimony.

6. Respondent Nehia, Inc. through Mr. Albert Maida, its part owner and officer most responsible for the on-going management and operation of the Club during all time herein material, testified to the effect that discriminatory practices, if any, engaged in by Robert L. Hayes and/or William J. Sahli were neither know to, acquiesced in, nor directed by any officer or employee of the corporation. In its aforesaid defense, each of the corporation owner/officers, Mr. Maida, Mr. Teeny and Mr. Lukich credibly testified to their respective friendships with several black persons and to the corporation's charitable donations and business contracting of the Club physical plant, personnel and stock, to black-related groups.

By way of corroborating the foregoing and countering the Agency's and complainant's charges to the contrary, Nehia, Inc. called a number of persons, most of whom were black, to testify as to their past and present relationships with both the corporation owners and the Club personnel. Each testified to the effect that he had never experienced any discriminatory treatment at the Club. Notwithstanding the foregoing, the weight of the evidence compels me to find as fact the following:

a. That during virtually all times the aforementioned Mr. Sahli engaged in his discriminatory practices, as found and recited hereinabove, Mr. Don Anderson, a "trusted" employee of Nehia, Inc., visually and audibly witnessed such practices, and failed to and refused to cause Mr. Sahli to cease and desist from such practices. I so find despite Mr. Anderson's testimony that he was never aware of any of the practices admittedly engaged in by Mr. Sahli. Mr. Anderson displayed a remarkable and disturbing lack of memory as to any past events about which he was questioned by counsel for the agency and complainants. This witness' demeanor and clearly evasive manner of answering questions under oath, compelled me to disregard totally the substance of his testimony. Mr. Sahli's undisputed testimony was to the effect that Mr. Anderson, whose job at the Club was to accept admission fees from patrons, was always physically positioned in close proximity to the said Mr. Sahli; that although the music was at times loud, conversation, requiring that the spoken word be heard, was not only possible, but necessary in the carrying out of his (Mr. Sahli's) function – checking identification. In addition, the presiding officer visited the Club and observed the respective positions, as pointed out by Mr. Maida, of both Mr. Sahli and Mr. Anderson and I am compelled to infer therefrom that Mr. Anderson could not reasonably have avoided perceiving Mr. Sahli's actions in discriminating against black persons. Further supportive of this finding is testimony of several witnesses, including the complainants, to the effect that the said Mr. Anderson clearly appeared to observe, and did not on at least one occasion, intervene in, Mr. Sahli's discriminatory conduct.

b. That Mr. Lee Harris, who during all times herein material was employed by Nehia, Inc. as Club manager, once instructed Mr. George MacGillis, a security guard then employed by Oregon Statewide Security, Inc. and temporarily assigned to the Club, to the effect that he (Mr. MacGillis) should not let black persons in unless he had to. I so find based on credible and convincing testimony to that effect given by the said Mr. George MacGillis, and notwithstanding contrary testimony of Mr. Harris. I accord determinative weight to Mr. MacGillis' testimony for the following reasons: First, his demeanor and candid manner of testifying coupled with an absence of any motive on his part to falsify or fabricate.

Second, he was not called to testify by any of the parties herein involved, but rather, testified that he had learned through the news media of the case the prior evening and felt he had relevant information which prompted him to contact my office at which time I asked him to testify. Mr. MacGillis subsequently arrived in the hearing room and was thoroughly examined by myself and the parties. Third, the said Mr. MacGillis, while admitting to a somewhat “hazy recollection” of events surrounding the aforementioned instructions, as well as the name of the Club employee who so instructed him, was, when questioned, able to testify that the person who had so instructed him spoke with either a Greek or Lebanese accent. When asked if that person was in the hearing room, Mr. MacGillis, after a brief pause during which I observed him apparently searching the numerous faces in the audience, pointed to an individual in the audience, which individual thereupon identified himself on the record as Mr. Lee Harris. I accord significant weight to Mr. MacGillis’ identification of Mr. Harris because he (Mr. MacGillis) had no prior opportunity to hear Mr. Harris speak; further, Mr. Harris was one of numerous people in the hearing room. Subsequent to Mr. MacGillis’ testimony, Mr. Harris testified that he is in fact Lebanese and I perceived that he speaks with a noticeable accent.

CONCLUSORY FINDINGS

1) Respondent Nehia, Inc., dba the Turquoise Room, at all times material herein, was a liquor licensee licensed to dispense alcoholic beverages on the premises with the responsibility of determining that patrons of the Club be at least 21 years of age; and that Nehia, Inc., delegated the age identification function to Respondent Robert L. Hayes and Oregon Statewide Security, Inc. and authorized Hayes to furnish employees to perform this essential function on behalf of Nehia, Inc.

2) Respondent Sahli was assigned to the Turquoise Room by Respondent Robert L. Hayes to perform the function of checking age identification and at all times material herein was acting on behalf of Respondent Nehia, Inc., in performing said function and determining who would be admitted to the Club.

3) Respondent Sahli was instructed by Respondent Hayes to perform, and did perform, the function of check age identification in such a manner that as many black persons as possible were excluded from the Club and discouraged from patronizing the Club and that as many mixed racial groups as possible were excluded

from the Club or discouraged from patronizing the Club. In this regard, Respondent Sahli treated black persons and racially mixed groups differently and more stringently than white persons or all white groups were treated with respect to checking age identification in that black persons were required to have an OLCC card as a condition of admission to the Club and were not offered or permitted to show other age identification or sign an S-146 form while white persons were not required to have an OLCC card as a condition for admission to the Club and were permitted to sign an S-146 form and permitted to show other identification.

4) Donald Anderson, at all times material herein, was an employee of Nehia, Inc., and was employed at the Turquoise Room to collect an admission charge from patrons; and in the performance of this function he knew that Respondent Sahli was imposing different and more stringent requirements for admission upon black persons and mixed racial groups than were being imposed upon white persons or all white groups. Further, Anderson knowingly participated in the racially discriminatory manner in which the age identification was being performed at the place of entrance to the premises; and further, Anderson from time to time exercised authority to admit patrons and gave directions to Respondent Sahli as to whom should be admitted. Anderson was aware and knew that during the entire period that he and Respondent Sahli worked together at the entranceway to the premises that Respondent Sahli at no time ever attempted to or did in fact refuse to respond to directions given him by Anderson when instructed to admit patrons.

5) Complainants John B. Robinson and Floyd S. Davidson, because of their race and color and because of the mixed racial makeup of the group they were with, and Sharon E. Coleman, because of her race and color were each subjected to and were the victims of the racially discriminatory practices described herein which took

place at the Turquoise Room and as to the effects thereof were caused to and did suffer mental anguish and distress as described herein.

Damages Findings

1. FLOYD S. DAVIDSON

Mr. Davidson's testimony, corroborated by Ms. Phelps and Mr. Walthers, was not only credible but in material respects uncontroverted, and I find, that as a result of having been discriminated against because of his race and color as found Anderson recited hereinabove, the said Mr. Davidson suffered considerable damage in the form of frustration, mental anguish and embarrassment.

In assessing the extent of the damage suffered by Mr. Davidson, I place weight on not only his conduct subsequent to Mr. Sahli's actions in refusing to admit Mr. Davidson's white female companion, Ms. Phelps, but on Mr. Davidson's apparent personal manner of reacting to stress situations such as testifying.

Upon being informed that Ms. Phelps would not be admitted to the Club, Mr. Davidson, with controlled emotion, stated " * * * look this isn't the first time it has happened, not the second, but it is the last * * * ." He thereupon demanded to see Mr. Sahli's identification and produced his own identification showing himself to be a Multnomah County Deputy Sheriff.

Mr. Davidson firmly and unbelievably testified as to his emotional condition after some length of time during which he made a note of Mr. Sahli's name and address and requested and received back from Mr. Don Anderson the four dollars admission fee he had paid for himself and his party, as follows: "Well, if I hadn't have been dealing with people, and I hadn't learned to control myself, I would have hit him in the mouth. You know, I run into it, but it gets frustrating. I got angry at him."

I find the foregoing testimony, particularly, to be consistent with my own observation of Mr. Davidson as a witness; his manner is one of outward control. I found him to be not unlike Ms. Phelps' description of him in her testimony: "Well, he didn't show (anger emotion) very much, but you see I had known Mr. Davidson since 1968 and we were close friends and I know he was angry. His voice gets kind of hard and (his) face gets stiff and he holds himself upright and I could see all the signs that he was angry."

Based on the foregoing and considerable additional uncontroverted testimony not herein recited, to the effect that subsequent to his departure from the Club premises, Mr. Davidson remained in an emotionally upset, angry, humiliated and embarrassed condition which, consistent with his character, he did not allow to "surface," I find that two thousand and no/100 dollars (\$2,000.00) is a reasonable value in compensation thereof.

2. JOHN B. ROBINSON

Mr. Robinson whose testimony was corroborated by his wife Lois Robinson, credibly testified to the effect and I find that as a result of having been discriminated against because of his race and color as found and recited hereinabove, the said Mr. Robinson suffered considerable damage in the form of mental anguish, embarrassment, frustration, and humiliation.

Implicit throughout Mr. Robinson's testimony as to the issue of damages was that the said Mr. Robinson "chose" to at least outwardly assume that the then stated reason for being denied admission to the Club (OLCC requirement that one possess an OLCC identification card) was the truthful, valid reason; that although "deep down" he at least suspected the stated reason was a fabrication, he was unwilling to cause his then

fiancee who was pregnant, or his visiting friend, any unneeded anguish, by dwelling on the subject.

Mr. Robinson is an observably quiet individual whom I found to be reluctantly and quietly candid about his feelings upon being denied Club admission – although he found it painful during the hearing to “appear” to complain about the way he and his companions were treated, and why.

Unlike Mr. Davidson whose predominate reaction was anger and frustration at being wrongfully denied admission Mr. Robinson’s principle reaction was more one of surprise and humiliation.

In assessing the amount of damage suffered by Mr. Robinson, I place weight on the above mentioned testimony and my own observation in addition to Mr. Robinson’s further testimony to the effect that upon being informed subsequent to the evening in question, that he had been lied to with respect to the reason for not being admitted, he was hurt and stunned by the inescapable conclusion that he had been discriminated against because of his race and color.

Based upon the foregoing along with considerable supportive testimony not herein recited, I find that as with Mr. Davidson, two thousand and no/100 dollars (\$2,000.00) is a reasonable monetary amount in compensation of the damage suffered by Mr. Robinson.

3. SHARON E. COLEMAN

Ms. Coleman’s emotional and credible testimony corroborate by Ms. Johnson, was convincing to the effect, and I find, that as a result of having been subjected to discrimination because of her race and color, the said Ms. Coleman suffered profound damage in the form of humiliation, frustration, anxiety, nervousness, embarrassment and mental anguish.

Unlike the situation both Mr. Davidson and Mr. Robinson experienced, Ms. Coleman, on the evening in question was required and able to produce not only an OLCC card, but three other additional pieces of identification establishing her age. Yet her four pieces of identification did not satisfy Mr. Sahli who then furnished a Statement of Age card, telling her to fill it out. Ms. Coleman thereupon became understandably incensed at what she correctly perceived was racial discrimination and “ * * * went to shaking and said * * * Well Goddam, what do you want, blood?” whereupon Mr. Sahli told her “ * * * I’m sorry you can’t be admitted because you have a bad attitude * * *.”

Ms. Coleman further testified that although finally Mr. Anderson instructed Mr. Sahli to “let her in, she showed you enough I.D.,” both she and Ms. Johnson turned around and left the Club premises; further that Ms. Coleman was in an extremely upset emotional condition and was afraid to drive her own car so requested Ms. Johnson to drive; that although the evening was young yet she lost her desire to have fun and had ruined her clothing by perspiration; that they drove around for hours and then stopped at a restaurant but that Ms. Coleman was too upset to eat and that she spilled her coffee on her clothing.

In further testimony Ms. Coleman emotionally related her reaction to the harassing tactics of Mr. Sahli as follows: “ * * * I felt like I was a criminal on trial for my life just because I came out to have fun for the evening.”

Perhaps most important in assessing the extent of damage suffered by Ms. Coleman as a result of her having been harassed because of her race and color was revealed in her believable and convincing testimony to the clear effect that the incident altered her personal relationships with white persons around who she works and with whom she associates. Further, that as a result of her experience, which to many less

sensitive or concerned persons might be deemed “trivial,” or “one of those things,” Ms. Coleman has “ * * * gotten so she doesn’t trust too many white people now.”

Based on the foregoing, further supportive testimony, and my clear impression of Ms. Coleman as not only a credible and convincing witness, but as a deeply hurt and changed person as a result of the racial discrimination she experienced, I find that two thousand five hundred and no/100 dollars (\$2,500.00) is an appropriate amount in compensation of her humiliation, frustration, anxiety, nervousness, embarrassment and mental anguish.

CONCLUSIONS OF LAW

1) Respondent Nehia, Inc., an Oregon corporation, is a place of public accommodation as defined in ORS 30.675(1).

2) That Nehia, Inc., dba The Turquoise Room, is liable for any unlawful practices as defined in ORS 659.010(14) engaged in by any person or persons acting on its behalf whether such person or person be employees, independent contractors or employees of independent contractors.

3) Respondent Nehia, Inc., violated the provisions of ORS 659.010(14) in that Respondents William J. Sahli and Robert L. Hayes, while acting on behalf of Nehia, Inc., did discriminate against and place restrictions on black persons or members of racially mixed groups who sought admission to the Turquoise Room because of the race and color of such persons or the mixed racial makeup of the groups which sought admission to the Turquoise Room.

4) That every person, whether acting in a personal capacity or as a corporate agent who commits an unlawful practices as defined in ORS 659.010(14) is personally liable for such unlawful practices.

5) That Robert L. Hayes, doing business as Oregon Statewide Security and later as Oregon Statewide Security, Inc., was during the time material herein, an

independent contractor engaged by Nehia, Inc. to provide security services on the Club premises and was thereafter acting on behalf of a place of public accommodation as defined in ORS 30.675.

6) Respondent Robert L. Hayes violated the provisions of ORS 659.037 in instructing and directing his employee, William J. Sahli, to discriminate against black persons seeking admission to The Turquoise Room because of their race and color.

7) William J. Sahli, during the times material herein, was employed as a security guard by Mr. Hayes, doing business as Oregon Statewide Security and later Oregon Statewide Security, Inc., as was assigned by Mr. Hayes, pursuant to this contract with Nehia, Inc., to perform security services at the Club and that while so employed and assigned, William J. Sahli was acting on behalf of a place of public accommodation as defined in ORS 30.675.

8) Respondent William J. Sahli violated the provisions of ORS 659.010(14) in performing the job functions on behalf of Respondent Nehia, Inc., of checking the age identification of individuals seeking admission to the Turquoise Room in performing said function in such a manner as to deny admission to The Turquoise Room to as many black persons as possible including the Complainants and to as many mixed racial groups as possible because of the race and color of their members.

9) Respondent Nehia, Inc., dba The Turquoise Room, a place of public accommodation and Respondents Sahli and Hayes, acting on behalf of such place of public accommodation, are each jointly and severally liable for the damages found herein to have been suffered by Complainants Floyd S. Davidson, John B. Robinson and Sharon Coleman.

10) Complainant Floyd S. Davidson, was the victim of and subjected to the unlawful practices committed by Respondents and each of them, described herein

above because of his race and color and because of the mixed racial makeup of the group he was with when he sought admission to The Turquoise Room on or about June 5, 1972.

11) Complainant John Robinson was the victim of and subjected to the unlawful practices committed by Respondents and each of them, as described herein above because of his race and color and because of the mixed racial makeup of the group he was with when he sought admission to The Turquoise Room on or about June 5, 1972.

12) Complainant Sharon E. Coleman, was the victim of and subjected to the unlawful practices committed by Respondents and each of them, as described herein above and was harassed and otherwise discouraged from seeking admission to The Turquoise Room in June of 1972.

ORDER

1. To eliminate the effects upon complainant Floyd S. Davidson of respondents' unlawful practices, said respondents shall deliver to the office of the Oregon Bureau of Labor, room 473 State Office Building, Portland, Oregon within ten (10) days of the date of a final order, a cashiers check or money order payable to Floyd S. Davidson in the amount of \$2,000.00.

2. To eliminate the effects upon complainant John B. Robinson of respondents' unlawful practices, said respondents shall deliver to the office of the Oregon Bureau of Labor, room 473 State Office Building, Portland, Oregon within ten (10) days of the date of a final order, a cashiers check or money order payable to John B. Robinson in the amount of \$2,000.00.

3. To eliminate the effects upon complainant Sharon E. Coleman of respondents' unlawful practices, said respondents shall deliver to the office of the Oregon Bureau of Labor, room 473 State Office Building, Portland, Oregon within ten (10) days of the date of a final order, a cashiers check or money order payable to Sharon E. Coleman in the amount of \$2,500.00.

4. Respondents Nehia, Inc., dba The Turquoise Room, Robert L. Hayes and William J. Sahli, their agents, officers, employees and successors in interest and all persons in active concert or participation with any of them are enjoined from engaging in any of the unlawful practices found hereinabove, which practices have the purpose and/or effect of discriminating against persons because of their race and color or because of the race and color of any other person with whom they associate.

5. Respondent Nehia, Inc. dba The Turquoise Room by and through Mr. Albert Maida shall within fifteen days of the date of a final order, formalize and deliver to

each corporate employee, officer, agent, and person acting on behalf of said corporation, a policy, setting forth in sufficient detail as to render it unambiguous, whereby identification checking, and all other services and functions offered and performed on the Club premises shall henceforth be without regard to and without disparate effect upon persons because of their race and color, a certified copy of such formal policy shall within fifteen days of the date of a final order, be delivered to the Commissioner of Labor or such other person as he shall designate to accept same.

6. Respondent Nehia, Inc. dba The Turquoise Room by and through Mr. Albert Maida shall within 30 days of the date of a final order post in the Club entranceway, such that it can be visually perceived without effort, a poster or placard clearly informing the reader that the Club offers its good and services to persons without regard to their race and color.

7. Whenever a time limit has been specified in any order herein, the time limit shall be tolled during all times that the respondents, or their agents shall be in default on any act required to be performed hereunder. This section shall apply not only to direct defaults in performance, but also to appeals, stays or other forms of indirect defaults. Provided, however, that nothing in this section shall prevent interest from accruing from ten (10) days after the entry of the order on unpaid sums awarded as a part of the remedies in the case.

IT IS FURTHER ORDERED that the Office of the Commissioner of the Oregon Bureau of Labor or its successors shall retain jurisdiction in this matter and if for any reason nor specified herein, new facts should develop which would affect any of the remedies provided herein, or the discriminatory conduct of any of the respondents should continue, the complainants, any persons similarly situated, the Administrator of the Civil Rights Division, or any of them may petition me for a supplementary Order and relief which would provide an adequate remedy for the complainants or other persons similarly situated to carry out the Civil Rights Laws, and eliminate the effects of such alleged unlawful practices.

ⁱ This order was originally published at 1 BOLI 24 (1975). The original order referred to the proposed order in the same case as "Exhibit A" and incorporated by reference parts of that proposed order; however, as noted in the Editor's Note at 1 BOLI 28, for reasons not explained, no copy of the proposed order was known to exist. The original proposed order was located in 1998, and for purposes of completeness of agency orders we now republish the order. The order printed above is a composite of the order appearing at 1 BOLI 24 and the proposed order referred to in 1 BOLI 24 as "Exhibit A," edited in accordance with the instructions of the order at 1 BOLI 24. ED: December 1998.