DEPARTMENT OF CIVIL RIGHTS
EQUAL OPPORTUNITIES DIVISION
CITY OF MADISON
210 MARTIN LUTHER KING, JR. BOULEVARD, ROOM 523
MADISON, WISCONSIN  53703

Saul St. John
Madison, WI 53716
Complainant

vs.

Overture Center for the Arts
201 State St.
Madison WI 53703
Respondent

INITIAL DETERMINATION
NO PROBABLE CAUSE
EOD Case No. 20143146

I. THE EQUAL OPPORTUNITIES COMMISSION DECIDED

There is no probable cause to believe Overture Center for the Arts violated Madison General Ordinance Section 39.03, the Equal Opportunities Ordinance, regarding refusal of access at a place of public accommodation because of the Complainant’s political beliefs.

II. THIS MEANS

No reason was found to believe a formal hearing should be held on this charge.

Unless a written appeal is received at the City of Madison’s Department of Civil Rights - Equal Opportunities Division Office within fifteen (15) days after the date of the finding of No Probable Cause, the case will be dismissed without further notice to the parties. Mail appeals to:

City of Madison Department of Civil Rights
Equal Opportunities Division
210 Martin Luther King, Jr. Blvd., Room 523
Madison, WI 53703-3346

This charge may also be closed with the State of Wisconsin Equal Rights Division.
III. THE CHARGE

In a complaint filed on September 8, 2014 with the Madison Equal Opportunities Division, the Complainant alleges the Respondent discriminated against him in violation of Madison General Ordinance Section 39.03, the Equal Opportunities Ordinance, by refusing access to Overture Center for the Arts because of his political beliefs.

IV. POSITION OF THE COMPLAINANT

The Complainant alleges he was delivered a notice on August 6, 2014 by the Madison Police Department (MPD) on behalf of the Respondent, which permanently banned him from the Overture Center from the Arts. The Complainant believes the Respondent decided to instate the permanent ban because of his political beliefs expressed through Twitter.

V. POSITION OF THE RESPONDENT

The Respondent denies it discriminated against the Complainant. The Respondent asserts it decided to ban the Complainant because he posed a threat of violence to one or more of the Respondent’s clients. The Respondent claims it had no knowledge of the Complainant’s political beliefs. According to the Respondent, it acted in the interest of its clients by refusing access to the Complainant in order to create a safe environment.

VI. ISSUES

A. Did the Respondent refuse access to the Complainant because of his political beliefs?

B. Did the Respondent discriminate against the Complainant because of his political beliefs in violation of Madison General Ordinance of Section 39.03, the Equal Opportunities Ordinance, by refusing him access to a place of public accommodation?

VII. INVESTIGATOR’S FINDINGS

A. The Complainant is a member of the political beliefs protected class.

B. The Respondent, Overture Center for the Arts, is a place of public accommodations within the means of the Equal Opportunities Ordinance.

C. The Complainant states he engaged in hash-tag activism through Twitter over the months prior to the Respondent’s decision to ban him from the Overture Center for the Arts. The Complainant claims Richard Bertrang, Chief of Security, decided to ban him from the Overture Center for the Arts after having the Complainant’s online political speech brought to his attention during a meeting with two of the Respondent’s clients, Ashley “Ashe” Dryden
and Jenifer Remsik. The Complainant provided a copy of the police report produced from this meeting.

D. The Complainant further claims that, according to the police report, the Respondent decided to ban him from the Overture Center for the Arts based on a review of his online conduct. The Complainant asserts his online conduct reflects an expression of his political beliefs and was therefore a factor in the treatment he received from the Respondent. The Complainant provided documentation of “tweets” from one of his Twitter accounts for the record.

E. The Respondent asserts that on August 1, 2014, an Overture Center for the Arts client advised Mr. Bertrang of the Complainant allegedly threatening one of the Madison Ruby Conference presenters, Ashe Dryden, by posting a comment via Twitter stating she “should be raped and shot in the head.”

F. The Respondent explains it shared the information with MPD and set up a meeting with Ashe Dryden, Jenifer Remsik (Conference Coordinator), MPD, and Mr. Bertrang prior to the Madison Ruby Conference. The Respondent claims MPD asked the Respondent to provide them with a ban letter to deliver to the Complainant in order to ensure the safety of its clients. In addition to the ban, the Overture Center for the Arts hired extra off-duty police officers to heighten security for the Madison Ruby Conference. The Respondent provided e-mail documentation that shows the Overture Center for the Arts hired these officers as a result of the alleged threatening behavior of the Complainant.

G. The Respondent claims its decision to ban the Complainant from the Overture Center for the Arts was based on the specific social media post brought to their attention and without knowledge of the Complainant’s political beliefs. The Respondent asserts it viewed the post in question not as political in nature, but rather a threat to Respondent’s clientele that could have been fulfilled at the Overture Center for the Arts during the Madison Ruby Conference, at which point the Respondent claimed responsibility for establishing a safe environment for their clients through banning the complainant.

H. The Complainant denies any claims regarding threats of violence towards Ashe Dryden via Twitter. The Complainant alleges he condemns all threats of violence and finds such behavior reprehensible, and provides related documentation to support his beliefs surrounding this type of behavior.

I. The Respondent asserts it is immaterial whether the Complainant did or did not tweet Ashe Dryden, but rather the Respondent had reasonable belief of an imminent threat and was responsible to take precautions to protect their clients, which included banning the Complainant from the Overture Center for the Arts.
J. Based on the record of Tweets and attachment K submitted by the Complainant, it appears the Complainant has been blocked by several Twitter users and his account has been suspended many times per violation of Twitter's abuse policy. It appears at least one additional woman, not including Ashe Dryden, has named the Complainant as a persistent source of fear.

K. From the information provided, it appears the Respondent had a legitimate non-discriminatory business reason for establishing a ban for the Complainant, and therefore refusing him access to the Overture Center for the Arts. The Respondent had a reasonable concern for the safety of their clients. It appears the Respondent acted in response to its concern for the safety of its clients, taking into consideration the heightened level of security given to the Madison Ruby Conference after the Respondent was made aware of the threat. The Respondent refused access to the Complainant for alleged criminal behavior, not political beliefs.

It is not the responsibility of the Equal Opportunities Division Investigator to determine whether the Complainant did or did not threaten the Respondent's client(s) through social media. The responsibility to determine whether criminal behavior occurred through social media lies with the Madison Police Department. Regardless of whether criminal behavior occurred, the Respondent had reasonable belief of possible threat and was obligated to respond accordingly.

Once a Complainant establishes a basic prima facie complaint of discrimination the Respondent must articulate a reasonable, non-discriminatory reason for its actions. The Complainant then must show the Respondent's reasons were pretext to discriminate. In response to the Respondent's reasons, the Complainant submitted Attachment J, in which he explains to MPD Chief Michael Koval in an e-mail, "As a consequence of this false claim, I was prevented from registering from classes for weeks, [and] I was banned for life from the Overture Center..." The Complainant does not establish pretext and asserts he was banned for life from the Overture Center because of the threatening behavior in question, not his political beliefs.

There is no probable cause to believe discrimination occurred.

SUMMARY

The Complainant alleges he was delivered a notice on August 6, 2014 by the Madison Police Department (MPD) on behalf of the Respondent, which permanently banned him from the Overture Center from the Arts. The Complainant believes the Respondent decided to instate the permanent ban because of his political beliefs expressed through Twitter.

The Respondent denies it discriminated against the Complainant. The Respondent asserts it decided to ban the Complainant because he posed a threat of violence to one or more of the Respondent's clients. The Respondent claims it had no knowledge of the
Complainant’s political beliefs. According to the Respondent, it acted in the interest of its clients by refusing access to the Complainant in order to create a safe environment.

From the information provided, it appears the Respondent had a legitimate non-discriminatory business reason for establishing a ban for the Complainant, and therefore refusing him access to the Overture Center for the Arts. The Respondent had a reasonable concern for the safety of their clients. It appears the Respondent acted in response to its concern for the safety of its clients, taking into consideration the heightened level of security given to the Madison Ruby Conference after the Respondent was made aware of the threat. The Respondent refused access to the Complainant for alleged criminal behavior, not political beliefs.

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Once a Complainant establishes a basic prima facie complaint of discrimination the Respondent must articulate a reasonable, non-discriminatory reason for its actions. The Complainant then must show the Respondent’s reasons were pretext to discriminate. In response to the Respondent’s reasons, the Complainant submitted Attachment J, in which he explains to MPD Chief Michael Koval in an e-mail, “As a consequence of this false claim, I was prevented from registering from classes for weeks, [and] I was banned for life from the Overture Center...” The Complainant does not establish pretext and asserts he was banned for life from the Overture Center because of the threatening behavior in question, not his political beliefs.

There is **no probable cause** to believe discrimination occurred.

Signed and dated this **13** day of **MAY**, 2015.

EQUAL OPPORTUNITIES COMMISSION

Charlyn Cruz-Nuñez  
Investigator/Conciliator

cc: Wisconsin Equal Rights Division  
Nancy Birmingham (Respondent’s Representative)  
Richard Bertrang (Respondent’s Representative)  
Saul C. Glazer (Respondent’s Attorney)  
John C. Mitby (Respondent’s Attorney)