

**DANIELA'S KITCHEN
38 N. FORT HARRISON AVE
CLEARWATER, FL. 33755
PHONE / FAX 813-442-4199**

March 5, 2001

Mr. Leon W. Russell
Human Rights/EEO Officer
Office of Human Rights
Pinellas County Government
400 S. Fort Harrison Ave., Suite 300
Clearwater, Florida 33756

RECEIVED BY

MAR 06 2001

OFFICE OF HUMAN RIGHTS

RE: Jeff Jacobsen v. Daniela's Kitchen
Charge Number: PCO: 0001-03181
and
Mark Bunker v. Daniela's Kitchen
Charge Number: PCO: 0001-03182

Dear Mr. Russell,

Both complaints identified above refer to a single incident on September 25, 2000, when Jeff Jacobsen and Mark Bunker were both refused further service at Daniela's Kitchen. Since the circumstances are the same, and the reason they were asked not to return is the same, this is my response to both complaints.

I appreciate your offer to mediate, but I am not interested in mediation since there is nothing to mediate. As I believe you will soon agree, these complaints were made in bad faith.

Futhermore, I believe the questions you have requested me to answer reflect a discriminatory attitude toward my religion which comes not from the Charging Parties, but from whoever phrased the questions. I have addressed this point in Section II below, in answering your second question.

I. Statement of my position:

Mr. Jacobsen and Mr. Bunker complain that they have been refused service at Daniela's Kitchen and claim that this refusal was motivated by discrimination, based on religion, in violation of Chapter 70 of the Pinellas County Code.

This is not true.

According to Pinellas County Code §70-214: "It is a violation of this subdivision for an operator of a place of public accommodation ... to deny or refuse to another person the full and equal enjoyment of the facilities and services of any place of public accommodation on the basis of *that person's* race, color, religion, national origin, sex or disability." [emphasis added]

In the matter of these complaints, "that person" is Mr. Jacobsen and Mr. Bunker. I have no idea what religion they profess, if any, nor do I care. Thus, it is impossible for me to be in violation of this section of the Code on the basis of "that person's" religion. But even if I did know the religion professed by Mr. Jacobsen and Mr. Bunker, they would never be excluded on that basis. Daniela's Kitchen does not select customers on the basis of race, color, religion, national origin, sex or disability. We cater to tastes in food, not beliefs.

Furthermore, "To establish prima facie case of discrimination under federal law and under Florida Civil Rights Act, plaintiff must demonstrate that: (1) she is member of protected class...." *Stevens v. Steak and Shake, Inc., M.D. Fla. 1998.*

The Charging Parties do not even claim to be members of a protected class. As stated in Mr. Jacobsen and Mr. Bunker's complaints, service was refused because of their conduct in connection with "that hate group across the street."

Mr. Jacobsen and Mr. Bunker are both employees of the "Lisa McPherson Trust, Inc." ("LMT Inc."), which is nationally listed as a hate group, alongside the Ku Klux Klan and others, under the Hate Crimes Prevention Project. (TAB A)

Since the hate group in question does not fall under any of the categories of "protected class" defined in federal or Florida law, nor under Chapter 70 of the Pinellas

County Code, Mr. Jacobsen and Mr. Bunker cannot even pretend to claim discrimination.

I am providing further information about LMT Inc. below. As I believe you will see, our refusal to serve Mr. Jacobsen and Mr. Bunker has to do with their *conduct*, and the very real concern we have at Daniela's Kitchen that Mr. Jacobsen and Mr. Bunker may provoke conflict and even violence on our premises. As I believe you will see, there is ample cause for this concern.

However, to further state the basis for refusal of service, under Florida Statute §509.092, the operator of a public food service establishment "has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator" (as long as the refusal is not based upon race, creed, color, sex, physical disability or national origin).

Additionally, per Florida Statute §509.141(1), the operator "may remove or cause to be removed ... any guest ... who, in the opinion of the operator, is a person the continued entertainment of whom would be detrimental to such establishment."

Refusal of service is lawful when it is determined that "it would be injurious to the reputation, dignity or standing of the establishment to entertain such guest, even though the guest in question has engaged in no misconduct." *Op. Atty. Gen., 059-195, Sept. 30, 1959.*

Mr. Jacobsen and Mr. Bunker are both objectionable and undesirable and I have every reason to believe their patronage would be injurious to the reputation, dignity or standing of my business. Based on their past conduct and the conduct of their associates in the downtown Clearwater area, I absolutely intend to invoke my right under Florida Law to refuse them service.

In fact, since I understand Mr. Jacobsen and Mr. Bunker may receive a copy of this letter, I reiterate in writing for their benefit, per Florida Statute §509.092:

"You are hereby notified that this establishment no longer desires to entertain you as its guest, and you are requested to leave at once. To remain after receipt of this notice is a misdemeanor under the laws of this state."

The Lisa McPherson Trust, Inc.

A leaflet distributed by the LMT Inc. lists Mark Bunker as "Multi-Media Coordinator" and Jeff Jacobsen as a member of the Board of Directors of this company.

Lisa McPherson was a long-term, dedicated participant in the Scientology religion who died from a pulmonary embolism in 1995 following a car accident. Neither Mr. Bunker, Mr. Jacobsen, nor anyone else at LMT Inc. as far as I know, ever knew Lisa McPherson. But they have used her tragic death to defame the religion and people she loved. If she were alive today, Mr. Jacobsen and Mr. Bunker would hate and harass her as they do all of her religion. The idea that LMT employees like Mr. Jacobsen and Mr. Bunker are claiming to be the victims of religious discrimination is, frankly, disgusting.

Mr. Jacobsen and Mr. Bunker complain that they have been discriminated against in violation of Chapter 70 of the Pinellas County Code on the basis of religion. Actually, *they* are in violation of this chapter and I believe you should conduct further inquiries into the human rights violations committed continuously by Mr. Jacobsen and Mr. Bunker and the organization they work for. To assist any action you may decide to take against them, I submit the following information:

1. As you may know, if you live in Clearwater, employees and agents of this company (usually filmed by Mr. Bunker) have paraded downtown carrying placards bearing, amongst other things, Nazi swastikas and human skulls. (TAB B)
2. They do this as part of their campaign to incite hatred and intolerance against members of my religion. A great deal of very real violence has been created as a direct result of this campaign, as described in an affidavit submitted by the Church of Scientology before the criminal charges based on the death of Lisa McPherson were dismissed. (TAB C)
3. The Lisa McPherson Trust, Inc., is not what it appears to be. The inclusion of the word "Trust" in the company name was apparently intended to mislead people into believing it is a non-profit corporation. It is not. It is a *for-profit* business.

The owner of this business is multi-millionaire financier Robert Minton. He has publicly acknowledged investing more than a million dollars into the civil litigation

brought by Lisa McPherson's distant relatives long after her death. He has also stated that this investment is his "piece of the litigation" and that he has an agreement with the plaintiff to acquire the "bulk" of any proceeds. Viewed against this backdrop, the public hostilities of the group are at best an attempt to poison the jury pool. Beyond Mr. Minton, virtually every employee of the company is either a "witness," "trial consultant," or otherwise involved in supporting the litigation. And it is all paid for by the non-party investor financing the case. These facts are all reflected in recent court orders issued by the Hon. Frank Quesada, the judge presiding over the civil litigation in Pinellas County Circuit Court. (These orders also included monetary sanctions against Mr. Minton and LMT Inc. for repeated violations of earlier court orders.) (TAB D)

4. The complaints filed with your office by Mr. Jacobsen and Mr. Bunker are clearly frivolous and intended to deceive your office into lending further support to their campaign. This conclusion is reinforced by the fact that a short while ago Mr. Minton announced on the Internet a "strategy" of getting people to file complaints against the Church with various government agencies. Indeed, the complaints filed with your office are not the only ones filed by LMT-connected individuals against local Scientologists or the Church of Scientology. All are equally frivolous.

5. Mr. Minton is himself currently under criminal investigation in Switzerland for fraud and money laundering for his part in bilking the nation of Nigeria of millions of dollars. *See:*

	Nigerian government penal complaint:	(TAB E)
	Sunday Express (UK):	(TAB F)
	Business Age magazine (UK):	(TAB G)

6. Another LMT associate, listed on the leaflet mentioned above as an "advisory committee" member, is Keith Henson. The LMT regularly pays Mr. Henson to come to Clearwater to join their activities. In his home state, California, Mr. Henson is currently under criminal prosecution on terrorism charges. (TAB H)

7. The Vice President of LMT Inc., Jesse Prince, goes to trial on May 1, 2001 on charges related to the cultivation of marijuana. (TAB I)

8. Mr. Bunker himself went to trial in Chicago earlier this month, charged with criminal trespass against the local Church of Scientology there. The jury found the evidence did not support criminal trespass, but the fact that the state prosecuted the case is

enough to add to my concern that Mr. Bunker would present a threatening presence if he were allowed to frequent Daniela's Kitchen.

There is much more that could be said about Mr. Bunker, Mr. Jacobsen and the LMT to explain why we at Daniela's Kitchen consider their presence a serious threat, likely to create a disturbance, disrupt other customers and possibly incite violence. But I believe the above is adequate to explain why they are refused service under Florida Statute §509.092. And I believe it also supports the view that your office should be investigating the LMT Inc.

II. Information comparing the treatment of the Charging Party to similarly situated customers, of religions other than Scientology:

As mentioned in the introduction to this letter, I believe this question reflects a discriminatory attitude, however unintended, on the part of the person who framed it.

First of all, to answer this question I would have to inquire into the religious beliefs of my customers so I could report to you, the representative of a government agency and a human rights office at that, how I treat them. I do not consider it any of my business what religion my customers profess and, with respect, I cannot imagine how it is any business of yours.

Secondly, what do you mean by "similarly situated customers?" You seem to be suggesting that I, a lone female employer and businesswoman, who happens to be a member of a minority religion which has suffered decades of prejudice and discrimination at the hands of local and state government officials, am guilty of discriminating against a "protected class" called "people of religions other than Scientology." (In case you don't know the history I am referring to, see *Church of Scientology Flag Service Org., Inc. v. City of Clearwater*, 2 F.3d 1514, 1531 [11th Cir. 1993], which refers to a "widespread political movement, apparently driven by an upsurge of sectarian fervor, intent on driving Scientology from Clearwater.")

I am sure this was not the intended effect of your question. But perhaps you can see how offensive it is to have such a question posed by a human rights office. The Charging Parties are not members of a class protected under civil rights law called "religions other than Scientology." They are paid employees of a hate group which *only*

exists to persecute the minority religion to which I belong. In this case they are seeking to pursue their destructive intentions toward my church by attacking the private business livelihood of one of its members, myself. To accomplish this they are invoking the assistance of your office. This also is reminiscent of the 11th Circuit case mentioned above, in which the Court noted that, "The interposition of official authority on behalf of [those opposed to church leadership or policy] is equally as offensive to the Establishment Clause as the delegation of such authority to church leaders..." (*Id.*, 1536)

Mr. Russell, in case it is not by now abundantly clear, I run a restaurant. I do not care one iota what religion my customers pursue. I do not care if they are atheists. I do not care what color their skin is. I do not care what they think or what they believe. I serve them food, and I hope they enjoy it and come back for more.

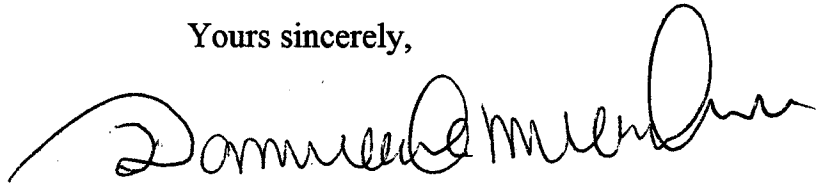
III. Legal name and name of the ownership as registered under state laws and explain the nature and type of business.

Daniela's Kitchen, Inc.

Owner: Daniela Malka

Type of business: Restaurant

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Daniela Malka', with a large, sweeping flourish on the left side.

Daniela Malka