



Maine Human Rights Commission

51 State House Station - Augusta, ME 04333

Patricia E. Ryan
Executive Director

John P. Gause
Commission Counsel

COMMISSION MEETING MINUTES

*Senator Conference Center (Best Western) Embassy Room
284 Western Ave ~ Augusta, Maine*

January 11, 2010

Commissioner Chandler called the January 11, 2010 Commission meeting to order at 8:32 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, Joe Perry; and A. Mavourneen Thompson.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Patricia Ryan requested that case E08-0560: Jacqueline Foss v. Buxton Eye Center & Dr. Carl Gullbrand be removed from the agenda because of settlement.
- Executive Director Patricia Ryan requested that case H08-0660 (A-C): Henry Jackman & Amy Jackman v. Chuck Dog Realty Trust et be tabled from the agenda to the March 1, 2010 meeting.
- Executive Director Patricia Ryan requested that case E08-0443: Trinidad Campos, Jr. v. Standard Insurance be removed from the Consent agenda because of settlement.

Commissioner Chandler moved, seconded by Commissioner Perry to adopt the revised agenda as amended. 4 in favor | 0 opposed.

CONSENT AGENDA (*see detailed listing on page 6*)

Commissioner Chandler moved, seconded by Commissioner Perry, to accept the Investigator's recommendations in each of the cases on the revised Consent Agenda. 4 in favor | 0 opposed.

MINUTES

Commissioner Chandler moved, seconded by Commissioner Perry, to adopt the December 7, 2009 Commission Meeting Minutes as written. 4 in favor | 0 opposed.

QUARTERLY REPORTS:

- Inventory Status Report & Resolutions: There were 644 open cases at the end of December 2009. The Commission closed 250 cases during the preceding quarter. 72 of those cases were closed providing some benefit to Complainants. The monetary amount recovered for Complainants during that time period was \$698,839.

- Training and Education – Commissioners reviewed Compliance Officer Fran Davis’ first quarter report and it was placed on file.
- Litigation - Commissioners agreed to move this item to another part of the agenda when the Commission could go into Executive Session.
- Financial Report - Commissioners reviewed the quarterly financial report and it was placed in the file.

ADMINISTRATION

- Personnel Report: Executive Director Patricia Ryan reviewed the report, dated January 4, 2010, indicating that Investigator Sheila Pierce would be retiring January 29th. This vacant position will be filled after retirement payouts have been exhausted. Cindy Rocque has been promoted to fill Charil Mairs’ position of Office Associate II - Supervisor. A waiver has been granted to fill the Office Associate II position within the next month. Support group vacancies over the past 6 months have caused major challenges.

COMPLIANCE

- Compliance Report: Commissioners reviewed Fran Davis’ report and it was placed on file.

INVESTIGATION

- New Charges: Commission staff opened 53 new cases in December
- Administrative Dismissals: Commission staff administratively dismissed 28 cases in December.
- Pre-determination Settlements: During the months of August, investigators were responsible for obtaining settlements in 17 cases resulting in a total monetary relief in excess of \$156,538.

NEW BUSINESS:

Executive Director Patricia discussed the Government Evaluation Act’s Agency Program Evaluation Report which was reviewed and accepted by the Joint Standing Committee on Judiciary on January 7th. Executive Director Patricia Ryan discussed the Commission’s FY 10 & 11 target budget reductions currently before the Appropriations Committee totaling \$41,000 for Fiscal Years 10 & 11 and the plan to reduce both Personnel Services and All Other expenditures to achieve the cost savings.

Executive Director Patricia Ryan discussed pending legislation related to trainers being allowed to bring search and rescue dogs being into places of public accommodation. Executive Director Patricia Ryan discussed pending legislation related to a proposal to reduce the time limits for case investigations from two years to one year. Commissioners agreed that the Commission could support this change with adequate resources. It is estimated that resources needed to accomplish this would be 3 investigators, a staff attorney, and office associate II.

CASES VOTED ON:

E08-0210: Boyd Tibbetts (Ashland) v. Irving Woodlands, LLC & Irving Forest Prods (Ashland) Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Perry, to find no reasonable grounds to believe that Irving Woodlands, LLC & Irving Forest Products Inc. discriminated against Boyd Tibbetts by terminating him on the basis of age or in retaliation for complaining of unsafe working conditions. 4 in favor | 0 opposed.

PA08-0441: Al Sanders (Warren) v. State of Maine/Corrections/Prison (Warren): Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Perry, to find no reasonable grounds to believe that the Respondent, State of Maine / Dept. of Corrections / Maine State Prison discriminated against the Complainant, Al H. Saunders, when the Respondent removed the Complainant from his single cell in medium security after a disciplinary incident, namely "refusing to obey on order." 4 in favor | 0 opposed.

E08-0506: Peggy Dwyer (Livermore) v. State of Maine/Dept. of Conservation (Augusta),
E08-0506A: Peggy Dwyer (Livermore) v. State of Maine/C. Carroll (Augusta): Attorney Elly Burnette restated the position of the Complainant. Assistant Attorney General Susan Herman restated the position of the Respondent. Field Investigator Sheila Pierce restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that the Respondents, State of Maine, Department of Conservation, and Ms. Catherine Carroll, denied Complainant, Peggy Dwyer, reasonable accommodations for her mental disabilities or retaliated against her in terms and conditions of employment because of her request for accommodations. 4 in favor | 0 opposed
Commissioner Perry moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that the Respondents, State of Maine, Department of Conservation, and Ms. Catherine Carroll, nominated Complainant Peggy Dwyer's position for elimination because of her mental disabilities and in retaliation for her requests for reasonable accommodations for her mental disabilities. 3 in favor | 1 opposed. (Vestal Opposed)

PA08-0550: Warren Sutherland (Eastport) v. Eastport Health Care, Inc. (Eastport): Attorney Sean Ocieпка restated the position of the Complainant. Attorney Judy Thornton restated the position of the Respondent. Commission Counsel John Gause restated the facts of the case in the absence of Chief Investigator Barbara Lelli. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, Eastport Health Care, Inc., retaliated against Complainant, Warren Sutherland, for filing a previous complaint with the Maine Human Rights Commission. 4 in favor | 0 opposed

E08-0606: Thomas Hood (Princeton) v. Lincoln Paper & Tissue (Lincoln). Thomas Hood restated the position of the Complainant. Attorney Thad Zmistowski restated the position of the Respondent. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that Mr. Thomas Hood has been discriminated against by Lincoln Paper & Tissue because of disability or a prior employer workers' compensation claim. 3 in favor | 1 opposed. (Thompson opposed)

H09-0170(A-B): Hillary Hemminger (Jay) v. CKB Properties, LLC, et al. (Lewiston). Attorney Patricia Ender restated the position of the Complainant. Dennis Therriault (father of Mark Therriault) restated the position of the Respondent. Field Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Perry, to find no reasonable grounds to believe that CKB Properties, LLC Global Real Estate Management, Inc. and Matthew R. Therriault subjected Hillary Hemminger to unlawful sexual harassment. 4 in favor | 0 opposed. Commissioner Thompson moved,

seconded by Commissioner Perry, to find no reasonable grounds to believe that CKB properties, LLC, Global Real Estate Management, Inc. and Matthew R. Theriault retaliated against Hillary Hemminger for filing this housing discrimination complaint by issuing her a Notice to Quit and by disposing of her belongings. 2 in favor | 2 opposed. (Vestal and Chandler opposed). Motion Failed. Commissioner Chandler moved, seconded by Commissioner Vestal, to find **reasonable grounds** to believe that CKB properties, LLC, Global Real Estate Management, Inc. and Matthew R. Theriault retaliated against Hillary Hemminger for filing this housing discrimination complaint by issuing her a Notice to Quit and by disposing of her belongings. 2 in favor | 2 opposed. (Perry and Thompson opposed) Motion Failed. The finding is no reasonable grounds.

H/E09-0329: Logan Sewall (Bath) v. M.W. Sewall & Company (Bath): Attorney Peter Kraft restated the position of the Complainant. Attorney Richard Moon restated the position of the Respondent. Field Investigator Angela Tizon restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that M.W. Sewall & Company terminated Logan Sewall's employment because of his disability. 4 in favor | 0 opposed. Commissioner Perry moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that M. W. Sewall & Company terminated Logan Sewall's rent subsidy because of disability. 4 in favor | 0 opposed. Commissioner Perry moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that M. W. Sewall & Company retaliated against Logan Sewall by banning him from the Company stores. 4 in favor | 0 opposed.

At 10:50 Commissioner Vestal called for a ten minute recess.

H09-0332: Diane Halina (Ocean Park) v. Ocean View Manor, Inc. (Ocean Park). Complainant was not present. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, Ocean View Manor, Inc., denied the Complainant, Diane Halina, a reasonable accommodation. 4 in favor | 0 opposed.

H09-0464: Amy Martin & o/b/o Minor (Bangor) v. Realty Resources Mgt. et al (Bangor): Attorney Patricia Ender restated the position of Complainant. Attorney Edward Gould restated the position of Respondent. Commissioner Perry moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe Realty Resources Management, Cindy Batchelder and Boyd Street Housing Associates discriminated against Amy Martin and her son on the basis of his disability by imposing and enforcing a lease amendment requiring a third party to accept responsibility for a service animal in the event of the tenant's incapacity. 4 in favor | 0 opposed. Commissioner Perry moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Realty Resources Management, Cindy Batchelder and Boyd Street Housing Associates retaliated against Amy Martin for asserting her son's rights under the Maine Human Rights Act. 3 in favor | 1 opposed. (Chandler opposed)

CASE INVESTIGATION

Commission Counsel Gause discussed a potential conflict of interest involving longevity pay issues in 4 cases filed with the Commission. Both the Executive Director and Compliance Officer are in the category of state employee who is eligible for longevity pay, which was withdrawn by the Legislature due to budget cuts. It is proposed that Commission Counsel Gause serve roles of Director and Compliance Officer during the proceeding of these complaints.

Commissioner Chandler moved, seconded by Commissioner Perry to authorize Commission Counsel John P. Gause act as Executive Director and Compliance Officer in E09-0430, Fournier v. State of Maine, Administrative Office of the Courts, E09-0410: Hodson v. State of Maine, Department of Administrative and Financial Services, E09-0431: Whitney-Asdourian v. State of Maine, Administrative Office of the Court, and E09-0411: Woodruff v. State of Maine, Department of Administrative and Financial Services. 4 in favor. 0 opposed.

PROPOSED REVISIONS TO MHRC PROCEDURAL RULES:

Commission Counsel John Gause discussed changes to Chapter 2; Chapter 4-A; and Chapter 9 of the Commission's procedural rules. No written comments were received by the Commission. Commissioner Chandler moved, seconded by Commissioner Perry to adopt the proposed changes to the Maine Human Rights Commission's Procedural Rules Chapter 2; Chapter 4-A; and Chapter 9. 4 in favor | 0 opposed

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Perry to move into executive session at 11:54 a.m. to discuss litigation with Commission Counsel pursuant to 1 M.R.S.A. §405(6)(E). 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry, to move out of executive session at 12/15 p.m.. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission should not file a complaint in E08-0183 Pamela Babcock v. Rite Aid of Maine. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission should not file a complaint in E08-0444 David W. Soper v. Twin City Taxi, Inc. 4 in favor | 0 opposed.

Commissioner Perry moved, seconded by Commissioner Chandler that the Commission should not file a complaint in E08-0104 Bethany Anderson v. State of Maine, Maine Public Employees Retirement System. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **file** a complaint in H09-0030-A,B,C: Amy Martin, individually and o/b/o minor child v. Boyd Street Associates, Realty Resources Management and Chythia Batchelder. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that if conciliation fails then the Commission **file** a complaint in H09-0464: Amy Martin, individually and o/b/o minor child v. Boyd Street Associates, Realty Resources Management and Cindy Batchelder. 4 in favor | 0 opposed.

ADJOURN:

There being no further business to come before the commission, the meetings was adjourned at 12:19 p.m.

CONSENT AGENDA:

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there is no written disagreement to the Investigator's recommendation. Commissioners consider these cases without oral argument by the parties.

E08-0234:	Sirikarn Mitchell (NV) v. Weathervane Seafoods (Belfast)	NRG
E08-0250:	Thomas Batson (Addison) v. Sunrise Opportunities (Machias)	NRG
E08-0264:	Melvin Morrison (Augusta) v. Access Worldwide Communications, Inc. (Augusta)	RG
E08-0293:	Susan Braley (FL) v. Mount Desert Island Hospital (Bar Harbor)	NRG
E08-0295:	Donna Bragg (Brewer) v. The Country Villa, Inc. (Bangor)	NRG
PA08-0375:	Gregory Denson (Augusta) v. Richard's Lounge d/b/a Bridge St Tavern (Augusta)	NRG
E08-0410:	Brian Blair (Livermore Falls) v. Farmington Operations, LLC (Farmington)	NRG
E08-0446:	Ryan Murphy (Portland) v. State of Maine/DHHS (Augusta)	NRG
E08-0473:	Kimberly Cummings (Gorham) v. Counseling Services, Inc. (Saco)	NRG
E08-0664:	Michael Geschwind (Winthrop) v. Sears, Roebuck & Co. (Augusta)	RG
E09-0101:	Melissa Ramey (Byron) v. Town of Byron	NRG
PA09-0106:	Lucretia Smith (Waterville) v. Waterville Regional Arts & Comm. Ctr (Waterville)	RG
PA09-0107:	Lucretia Smith (Waterville) v. Kennebec Valley Dental Coalition (Waterville)	RG