



Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

August 20, 2012

Commissioner Vestal called the August 20th Commission meeting to order at 8:33 a.m. Present were Commissioners Paul Vestal, Sallie Chandler, Deborah Whitworth and Arnold Clark.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Amy Sneirson requested that the following cases be tabled to the September 24th Commission Meeting:

E10-0618: Timothy Lynch v. Western Express, Inc.

ED/PA11-0333: Corey Shaw v. Bridgton Academy

E11-0684: John Rogers v. City of Calais

E10-0638: Glen Mercier v. Elder Housing Development & Operations Corporation

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

CONSENT AGENDA (see detailed listing on page 6)

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

MINUTES:

Commissioner Chandler moved, seconded by Commissioner Clark, to adopt the June 25, 2012 Commission Meeting Minutes. 3 in favor | 1 abstained (Whitworth abstained).

QUARTERLY PROGRAM REVIEW:

- Inventory Status Report & Resolutions: There were 737 open cases at the end of June 2012. The Commission closed 154 cases during the preceding quarter; 43 of those cases were closed providing some monetary benefit to Complainants. The relief obtained in all cases benefited 159 people. The monetary amount recovered for Complainants during that time period was \$945,000.
- Training/Education: Commissioners reviewed the quarterly report indicating that staff participated in 9 training sessions.

- Litigation - Commissioners agreed to move this item to another part of the agenda when the Commission could go into Executive Session.
- Financial: Commissioners reviewed the quarterly financial report and it was placed in the file.

Legal Counsel John P. Gause reviewed two new financial policies and procedures requirements for Commissioners contained within 5 M.R.S. § 12022, “An Act to Implement the Recommendations of the Office of Program Evaluation and Government Accountability and the Government Oversight Committee Regarding Quasi-Independent State Entities”, requirements which are effective as of August 30th. Melody Piper reviewed several financial report alternatives with the Commissioners. Commissioners stated that the format that Commission staff utilize to report financial matters and details to the Commissioners is sufficient for them to meet the obligations of the new legal requirements, particularly because Commissioners know that they may obtain more detailed financial information from Commission staff at any time.

ADMINISTRATION:

Personnel Report: Executive Director Amy Sneirson reviewed the report dated August 10, 2012 noting no significant personnel changes. Mark Coursey will be joining the Commission for a semester as a student extern from the University of Maine Law School.

COMPLIANCE:

Compliance Report: Commissioners reviewed the compliance report and it was placed on file.

- Commissioner Chandler moved, seconded by Commissioner Clark, to dismiss E09-0596, Leathers v. Northeast Laboratory, as the case has been resolved by the parties. 4 in favor | 0 opposed.
- Commissioner Chandler moved, seconded by Commissioner Clark, to dismiss E10-0405, Tibbetts v. KidsPeace New England, as the case has been resolved by the parties. 4 in favor | 0 opposed.
- Commissioner Chandler moved, seconded by Commissioner Clark, to dismiss E10-0620, Vilandry v. Lank Machining, as the case has been resolved by the parties. 4 in favor | 0 opposed.
- Commissioner Chandler moved, seconded by Commissioner Whitworth, to approve the conciliation agreement and to dismiss E11-0588, Duprey v. Mid-Maine Homeless Shelter, as the case has been resolved by the parties and Respondent agreed to the Commission’s public interest terms. 3 in favor | 0 opposed | 1 abstained (Clark).
- Commissioner Chandler moved, seconded by Commissioner Clark, to dismiss H11-0620, Parham v. Sea Cliff House Motel, as the case has been resolved by the parties. 4 in favor | 0 opposed.
- Commissioner Chandler moved, seconded by Commissioner Clark, to dismiss E10-0273, Smith v. KenKevII, Inc. d/b/a PT’s Showclub, as the case has been resolved by the parties. 4 in favor | 0 opposed.
- Commissioner Clark moved, seconded by Commissioner Chandler, to dismiss E10-0357, Dunphy v. Blueberry Ford, as the case has been resolved by the parties. 4 in favor | 0 opposed.
- Commissioner Clark moved, seconded by Commissioner Chandler, to dismiss E10-0479, Cain v. American Legion Post 155, as the case has been resolved by the parties. 4 in favor | 0 opposed.

INVESTIGATION:

New Charges: Commission staff opened 59 new cases in June and 57 new cases in July.

Administrative Dismissals: Commission staff dismissed 28 cases in June and 23 cases in July.

Pre-determination Settlements: During the months of June and July, staff members were responsible for obtaining settlements in 30 cases resulting in total monetary relief in excess of \$443,033 for complainants.

NEW BUSINESS:

- Executive Director Amy Sneirson reviewed the Commission's Procedural Rule § 2.02(H), identifying the circumstances under which the Executive Director has the authority to administratively dismiss complaints. Director Sneirson requested the Commissioners determine the procedure for handling complaints in which Respondents seek bankruptcy protection, as that protection "stays" action against the debtor. Commission Counsel John Gause noted that Procedural Rule § 2.02 gives the Executive Director authority to dismiss complaints generally, but does not specifically reference bankruptcy proceedings. Commissioner Chandler moved, seconded by Commissioner Clark, to find that the Executive Director has the authority to administratively dismiss complaints in which Respondents file for bankruptcy protection, independent of the Procedural Rule. The Commissioners also directed Commission Counsel John Gause to prepare a proposed regulatory amendment to Procedural Rule § 2.02(H), in order to add bankruptcy proceedings as an additional grounds for the Executive Director to administratively dismiss a complaint, at the next time the Commission is engaged in rulemaking otherwise.
- Commissioner Whitworth moved, seconded by Commissioner Chandler, to implement the Commission's mediation program by adopting the proposed Third-Party Neutral Mediation Program Handbook. 4 in favor | 0 opposed.

LITIGATION: Moved to after Executive Session.

At 8:37 AM Commissioner Vestal called for a 10 minute recess.

CASES VOTED ON:

E11-0631: Annie Pedersen (St. Albans) v. RSU 19 (Newport): Attorney Beth Gallie restated the position of the Complainant. Attorney Peter Felmy restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Respondent RSU 19 discriminated against Complainant Annie Pedersen in employment because of physical disability. 4 in favor | 0 opposed.

E10-0524: Eric Stewart (Benton) v. Pine View Mobile Homes (Winslow). Attorney James Laliberty restated the position of the Respondent. Attorney Elly Burnett restated the position of the Complainant. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that the Respondent Pine View Mobile Homes discriminated against Complainant Eric Stewart in employment because of physical disability and by terminating his employment. 3 in favor | 1 opposed (Chandler).

E10-0545: Erica Pfannensteil (Bangor) v. Omnicare, Inc. (Westbrook). Erica Pfannensteil restated the position of the Complainant. Attorney Dan Schwartz restated the position of the Respondent. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to

believe that Omnicare, Inc. retaliated against Erica Pfannensteil for activity protected by the Whistleblowers' Protection Act. 4 in favor | 0 opposed.

E11-0197: Emin Karimov (Portland) v. MHG-Portland, LLC d/b/a The Eastland Park Hotel (Portland): Commissioner Clark moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that MHG-Portland, LLC d/b/a The Eastland Park Hotel discriminated against Amin Karimov on the basis of age and national origin by subjecting him to less favorable terms and conditions of employment and by terminating him. 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that MHG-Portland, LLC d/b/a The Eastland Park Hotel retaliated against Amin Karimov in violation of the Whistleblowers' Protection Act by subjecting him to less favorable terms and conditions of employment and by terminating him. 4 in favor | 0 opposed.

E11-0208: Jeffrey Bearce (Waterville) v. City of Waterville (Waterville). Attorney Edward Benjamin restated the position of the Respondent. Jeffrey C. Bearce restated the position of the Complainant. Investigator Domini Pham restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that the Respondent City of Waterville subjected Complainant Jeffrey C. Bearce to an unlawful medical examination or terminated his employment because of his physical disability. 4 in favor | 0 opposed. Commissioner Chandler moved, seconded by Commissioner Clark, to find **reasonable grounds** to believe that Respondent City of Waterville discriminated against Complainant Jeffrey C. Bearce by failing to provide him with a reasonable accommodation for his physical disability. 3 in favor | 1 opposed (Whitworth).

E11-0248: Ana Arteaga (Thomaston) v. Pik-Qwik Thomaston, Inc. (Thomaston): Ana Arteaga restated the position of the Complainant. Respondent was not present. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Pik-Qwik Thomaston, Inc. subjected Complainant Ana M. Arteaga to different terms and conditions of employment and terminated her because of race, color or national origin. 4 in favor | 0 opposed.

PA11-0251: Rosemary Kelly (Friendship) v. State of Maine/Department of Health & Human Services/Division of Licensing & Regulatory Services (Augusta). Attorney Beth Gallie restated the position of the Complainant. Assistant Attorney General Kelly Turner restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Complainant Rosemary Kelley was subjected to unlawful disability discrimination by Respondent State of Maine/Dept. of Health and Human Services/Div. of Licensing and Regulatory Services. 4 in favor | 0 opposed.

H11-0670: Cody Rawstron & William Rawstron o/b/o Minors (Portland) v. Mary Jacobs (Westbrook). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Mary Jacobs discriminated against Complainants Cody and William Rawstron and their children on the basis of religion. 4 in favor | 0 opposed.

E11-0742: Kenneth Young (Dixfield) v. Julien A. Castonguay, Inc. (Sabattus). Kenneth Young restated the position of the Complainant. Respondent was not present. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Julien Castonguay, Inc. terminated Complainant Kenneth Young's employment because of physical disability. 4 in favor | 0 opposed.

H12-0153: Kristine & Daniel Adams (Lewiston) v. Randall Road Associates, LLC/Lewiston Milling, Inc. d/b/a Quadrant Property Management, & Patricia McLeod (Lewiston). Kristine & Daniel Adams restated the position of the Complainants. Pat McLeod restated the position of the Respondents. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that the Respondents Randall Road Associates, LLC, Lewiston Milling, Inc. d/b/a Quadrant Property Management, or Patricia A. McLeod denied requests for reasonable accommodations by Complainants Kristine M. And Daniel Adams, or by forcing them to move out. 4 in favor | 0 opposed.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Whitworth, to move into executive session at 12:46 p.m. to discuss litigation with Commission Counsel pursuant 1 M.R.S.A.§405(6)(E). 4 in favor | 0 opposed.

At approximately 12:50 p.m. Commissioner Chandler moved, seconded by Commissioner Clark, to come out of executive session. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Vestal, to adopt a Basis Statement and rule amendments to the following rules:

- Chapter 2: Procedural Rule;
- Chapter 4-A: Procedural Rule, Equal Educational Opportunity;
- Chapter 6: Accessibility Requirements for Public Accommodations and Places of Employment; and
- Chapter 7: Accessibility Regulations of the MHRC.

4 in favor | 0 opposed.

LITIGATION:

At approximately 12:50 p.m., Commissioner Chandler moved, seconded by Commissioner Clark, for the Commission not to file a complaint in the following reasonable grounds cases:

- E10-0393: Crystal Palmer v. Wireless Link, Inc. (WPA termination)
- E11-0403: Lisa Pierce v. Families Matter, Inc. (unequal employment opportunities based on race, color, national origin and ancestry)

4 in favor | 0 opposed.

ADJOURN:

There being no further business to come before the Commission, the meeting was adjourned at 12:54 PM by motion of Commissioner Chandler, seconded by Commissioner Whitworth. 4 in favor | 0 opposed .

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

CONSENT AGENDA

ED/PA10-0441: Evelyn Fairman (Dixmont) v. John Bapst Memorial High School (Bangor)	NRG
ED/PA10-0553: Evelyn Fairman (Dixmont) v. Audrey Swanton (Bangor)	NRG
E10-0450: Andrea Boyd (Pittston) v. Superfoxes, LLC d/b/a Primp Salon & Gifts (Falmouth)	NRG
E10-0497: Malyun Isman (Raleigh, NC) v. Granite Bay Care, Inc.	RG/NRG
E10-0520: Stephen Winslow (North Waterboro) v. Handyman Equipment Rental/One Stop Party Shoppe (Portland)	NRG
E10-0582: Kevin Bland (Ellsworth) v. City of Bangor (Bangor)	NRG
PA11-0127: Candace Antonelli (Center Ossipee, NH) v. Mixers, Inc. (Sabattus)	NRG
PA11-0127-A: Candace Antonelli (Center Ossipee, NH) v. MGM Sabattus, LLC (Sabattus)	NRG
PA11-0161: Candace Antonelli (Center Ossipee, NH) v. Bubba’s Sulky Lounge (Portland)	NRG
PA11-0171: Candace Antonelli (Center Ossipee, NH) v. Town of Sabattus (Sabattus)	NRG
E11-0210: Crystal Adams (Lebanon) v. Town of Sanford (Sanford)	NRG
E11-0368: Stephen Dill (Portland) v. Bath Iron Works (Bath)	NRG
PA11-0405: Charles Page (Warren) v. State of Maine/Department of Corrections (Augusta)	NRG
E11-0500: Gerard Cyr (Norridgewock) v. CTME, LLC d/b/a Color Tyme (Oakland)	NRG
H11-0534: Pine Tree Legal Assistance, Inc. (Portland) v. Geary Bonville (Presque Isle)	RG
E11-0682: Ty Kerr (Winslow) v. MSAD 49 (Fairfield)	NRG
H11-0754: Dilip Gopi & Nisha Kannusamy & o/b/o Minor Child (South Portland) v. Alan & Darcy Starrett (Portland)	NRG
E12-0058: Daniel Carrier (South Portland) v. Toddle Inn Daycare, Inc. (Scarborough)	NRG
H12-0073: Leah & Ralph Mathis & o/b/o Minor Children (Eddington) v. David Limacher (Eddington)	NRG
H12-0152: Michelle Rondo (Biddeford) v. Chicopee Developers LLC & Kevin Beaulieu (Old Orchard Beach)	NRG
H12-0154: Sarah Whynaught (Carthage) v. Jane McAuliffe & Hanna Jackson (Casco)	NRG
H12-0210: Jessica Silva & Andrew Heywood & o/b/o Minor Child (Bangor) v. Stanley Bangor	NRG
H12-0211: Jessica Silva & Andrew Heywood & o/b/o Minor Child (Bangor) v. Janna Martin (Bangor)	NRG
H12-0212: Farhan Abdi & Fatima Mohamed & o/b/o Minors (Portland) v. Portland Housing Authority (Portland)	NRG