Maine Human Rights Commission

51 State House Station, Augusta, ME 04333-0051

Physical location: 19 Union Street, Augusta, ME 04330
Phone (207) 624-6290 ▪ Fax (207) 624-8729 ▪ TTY: Maine Relay 711
www.maine.gov/mhrc

Amy M. Sneirson
EXECUTIVE DIRECTOR

Barbara Archer Hirsch
COMMISSION COUNSEL

INVESTIGATOR'S REPORT
E17-0267-A, -B
May 10, 2019

Ernest Michael Ballesteros (Glenburn)

v.

ALCOM, LLC (Winslow)
&
Hudson Ferry Capital, LLC (New York, NY)[1]

Summary of Case:

Complainant, who was plant manager for Respondent, a trailer manufacturer, alleged that he was subjected to unlawful discrimination based on age when he was discharged. Respondent denied discrimination and stated that Complainant was discharged due to poor performance. The Investigator conducted a preliminary investigation, which included reviewing the documents submitted by the parties and holding a Fact Finding Conference. Based upon this information, the Investigator recommends a finding that there are reasonable grounds to believe Complainant was discriminated against on the basis of age.

Jurisdictional Data:

1) Dates of alleged discrimination: 1/26/2017.
2) Date complaint filed with the Maine Human Rights Commission ("Commission"): 6/14/2017.

[1] Complainant alleged that both Respondents were his employer because they were an integrated enterprise. Although the Law Court has not yet decided whether to adopt it, the "integrated enterprise" test has often been adopted or employed by federal courts to determine whether multiple entities operate as a single employer for purposes of liability under federal anti-discrimination laws. *See Batchelder v. Realty Res. Hospitality, LLC*, 2007 ME 17, ¶¶ 8, 11 (collecting cases). Pursuant to the "integrated enterprise" test, two entities may be treated as one employer after examining four factors: (1) interrelation of operations; (2) common management; (3) centralized control of labor relations; and (4) common ownership. *See Romano v. U-Haul International*, 233 F.3d 655, 662 (1st Cir. 2000). The test should be applied flexibly, with a focus on control of labor relations, and it is not necessary that all four factors be present to establish an "integrated enterprise." *Torres-Negron v. Merck & Company, Inc.*, 488 F.3d 34, 42 (1st Cir. 2007). The focus is "on employment decisions, but only to the extent that [a respondent] exerts an amount of participation that is sufficient and necessary to the total employment process, even absent total control or ultimate authority over hiring decisions." *Romano*, 233 F.3d at 666. In this case, the record suggests that the two named Respondents should be considered an "integrated enterprise" for purposes of liability here. However, since resolution of the integrated enterprise issue is not necessary to the underlying claim of discrimination, it will not be analyzed further in this report. For ease of reference, both listed Respondents will be referred to collectively as "Respondent" throughout this report.