



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

March 23, 2015

Commission Chair Arnold Clark called the March 23, 2015 Commission meeting to order at 8:30 a.m. Present were Commission Chair Arnold Clark, and Commissioners Sallie Chandler, John Norman, Deborah Whitworth, and A. Mavourneen Thompson.

AGENDA

Commissioner Clark called for adoption of the Agenda and Consent Agenda.

Executive Director Amy Sneirson advised the following two cases have been tabled to the April 27, 2015 Commission Meeting:

PA13-0746: Brandy Blankenship o/b/o Minor (Windham) v. Falmouth Pediatric Dentistry (Falmouth)
E14-0140: Samantha Blom (South Paris) v. Shaner's Family Restaurant (Norway)

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the Agenda as Amended and accept the Investigator's recommendations in each of the cases on the Consent Agenda. 5 in favor | 0 opposed (see detailed listing on page 5).

MINUTES

Commissioner Thompson moved, seconded by Commissioner Whitworth, to adopt the February 23, 2015 Commission Meeting Minutes. 3 in favor | 0 opposed | 2 abstained (Clark and Chandler abstained).

ADMINISTRATION

Personnel Report: Executive Director Amy Sneirson reported that there were no personnel changes so no report was issued. The Commission is currently interviewing law school candidates for summer externships.

COMPLIANCE

Commissioners reviewed the compliance report showing no successful conciliations, 5 unsuccessful conciliations, and 7 conciliations in progress. It was placed on file.

INVESTIGATION

New Charges: Commission staff opened 50 new cases in January, and 48 new cases in February.

Administrative Dismissals: The Executive Director administratively dismissed 42 cases in February, and so far 10 in March.

Pre-determination Settlements: Since January 10, 2015, 9 cases resulted in settlements with total monetary relief in excess of \$86,000 for complainants.

NEW BUSINESS:

The Commission has two budget bills pending before the Legislature: our supplemental budget bill for the remainder of the current fiscal year and our biannual budget for 2016 and 2017 fiscal years. Executive Director Sneirson went through the proposals in each, and discussed which proposals were included in the Governor's budget proposal and which were not.

The Commission is also tracking and testifying on a number of bills that relate to the Maine Human Rights Act:

- LD 221, Act to Amend the Law Regarding Service Animals in Housing
- LD 547, An Act to Certify Service Animals
- LD 872, An Act to Ensure Integrity in the Use of Service Animals
- LR 1365, An Act to Protect Certain Identifying Information under the MHRA
- LR 1267, An Act to Protect Religious Freedom
- LD 673, An Act to Help Prevent Age Discrimination
- LD 902, Resolve, to Establish the Commission to study parking for persons with physical disabilities

and others.

Executive Director Amy Sneirson requested the remaining business (litigation) be taken after the morning cases were heard on the agenda.

CASES VOTED ON 8:45 A.M.:

PA13-0331-A: Kevin T. Myshrall (West Bethel) v. State of Maine/Department of Public Safety/ Office of the State Fire Marshal (Augusta). Kevin T. Myrshall restated his position as the Complainant. Assistant Attorney General Susan Herman restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Kevin T. Myshrall was unlawfully discriminated against by Respondent State of Maine/Department of Public Safety/Office of the State Fire Marshal on the basis of physical disability when he was not provided with a reasonable accommodation. 5 in favor | 0 opposed.

H13-0132: Alicia Wright, individually and o/b/o Minor (Westbrook) v. Kolawole Bankole (Westbrook). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Kalowole Bankole discriminated against Alicia Wright and minor child on the basis of sex by subjecting them to a hostile housing environment. 4 in favor | 0 opposed | 1 Abstained.(Chandler Abstained.)

E13-0431: Tristan Fatz (Norridgewock) v. New Balance Athletic Shoes, Inc. (Skowhegan). Attorney Max Katler restated the position of the Complainant. Attorney Matthew Raynes restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Tristan Fatz was subjected to unlawful disability discrimination in employment (discharge, reasonable accommodation, hostile work environment) by Respondent New Balance Athletic Shoe, Inc. and no

reasonable grounds to believe that Complainant Tristan Fatz was subject to unlawful retaliation in violation of the MHRA and/or the WPA. 5 in favor | 0 opposed.

H14-0626 and H14-0627: Shirley Kelderhouse and Shaun Patton (Bangor) v. Megunticook Management and Realty Corporation and Jeffrey Weymouth (Camden). Attorney Christopher Hardy and Mrs. Weymouth restated the position of the Respondents. Attorney Patricia Ender restated the position of the Complainants. Executive Director Amy Sneirson presented the investigator's report on behalf of Chief Investigator Vickie Ternig, who was not present. Commissioner Thompsons moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondents Megunticook Management Realty Corporation and Jeffrey Weymouth discriminated against Complainants Shirley Kelderhouse and Shaun Patton in housing on the basis of race by refusing to rent them a dwelling. 2 in favor | 3 opposed (Chandler, Clark, Norman opposed); motion failed. Commissioner Chandler moved, seconded by Commissioner Norman, to find **Reasonable Grounds** to believe that Respondents Megunticook Management Realty Corporation and Jeffrey Weymouth discriminated against Complainants Shirley Kelderhouse and Shaun Patton in housing on the basis of race by refusing to rent them a dwelling. 3 in favor | 2 opposed (Whitworth and Thompson opposed).

At 11:10 a.m., Executive Director Amy Sneirson returned to the New Business agenda item for two additional matters related to E14-0011, Allina Diaz (Auburn) v. Moody's Restaurant d/b/a Moody's Diner. Executive Director stated that after conciliation failed in the case, the Complainant submitted a request for a right-to-sue letter; pursuant to the Commission's Procedural Rule 2.05(I), after the issuance of an investigator's report in a case, the Commission must approve of the granting of a right-to-sue letter. Also, the Commission had been presented with a question pursuant to Commission Procedural Rule 2.07(C), whether to reopen Diaz v. Moody's and order a new investigation in the case. Executive Director Sneirson provided the Commissioners with a memorandum outlining the case's procedural history, and suggested that the Commission go into executive session to discuss the Commission's legal rights and duties with counsel.

At 11:15 a.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to move into executive session to legal rights and duties of the Commission pursuant 1 M.R.S. §405(6)(E). 5 in favor | 0 opposed.

At approximately 11:47 p.m. Commissioner Chandler moved, seconded by Commissioner Thompson, to come out of executive session. 5 in favor | 0 opposed.

Commissioner Clark stated that the Commission received a request to order a new investigation in E14-0011 pursuant to Commission Procedural Rule 2.07(C), and noted that the parties' submissions discuss an audiotape that both parties had and which neither party submitted to the investigator during the investigation of the case. Clark asked if there was a motion to order a new investigation pursuant to Rule 2.07(C). There was no motion by any of the Commissioners to return the case for a new investigation.

Commissioner Norman moved, seconded by Commissioner Whitworth, not to issue a right-to-sue letter in case E14-0011: Diaz v. Moody's Diner. 5 in favor | 0 opposed.

At 11:56 p.m. Commissioner Thompson moved, seconded by Commissioner Chandler, to move into executive session to discuss litigation with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 5 in favor | 0 opposed.

At approximately 12:14 p.m. Commissioner Thompson moved, seconded by Commissioner Whitworth, to come out of executive session. 5 in favor | 0 opposed.

LITIGATION:

Commissioner Chandler moved, seconded by Commissioner Thompson, not to litigate the following “reasonable grounds” cases:

- E13-0434, Adam Clark v. Geddy’s Pub d/b/a Geddy’s Down Under Gift Shop (Bar Harbor)
- E13-0121 and E13-0122, Theresa Charrette (Sanford) and Lorraine Scamman (Saco) v. Shaw’s Supermarkets, Inc. (Sanford/Saco)
- E13-0217, Dorothy Riley (Windham) v. Shaw’s Supermarkets, Inc. (Brunswick)
- PA13-0607, Darlene Hayes (Sanford) v. Southern Maine Oral & Maxillofacial Surgery, PA (Windham)
- E12-0609, Michael A. Cote, Jr. (Turner) v. Hirschbach Motor Lines, Inc. (Illinois)
- E13-0063, Lacey Vaccaro (Sanford) v. Tri State Cleaning, Inc. (Moody)
- E14-0011, Allina Diaz (Auburn) v. Moody’s Restaurant, Inc., d/b/a Moody’s Diner (Waldoboro)

ADJOURNMENT:

There being no further business to come before the Commission, Commissioner Whitworth moved, seconded by Commission Norman, to adjourn the meeting the meeting at 12:05 PM. 5 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

PA13-0193: Martin Panther, Sr. (Holden) v. Penobscot Aerie No. 3177 Fraternal Order of Eagles (Brewer)	RG/NRG
E13-0223: David Connor (Fairfax, VA) v. Ocean State Job Lot of Maine 2009 LLC d/b/a Ocean State Job Lot (Kingstown, RI)	NRG
PA13-0239: Barbara Jean Nierengarten-Smith (Santa Fe, N.M.) v. Haystack Mountain School of Crafts (Deer Isle)	NRG
E13-0289: Jessica Almeida (Madison) v. Somerset County (Skowhegan)	NRG
E13-0326: Michael Larrabee (Bucksport) v. City of Ellsworth (Ellsworth)	NRG
E13-0435: Cindy Smith (Buxton) v. Hannaford Bros. Co. (Westbrook)	NRG
E13-0570: Anna Paul (Hollis) v. Southern Maine Medical Center (Biddeford)	NRG
E13-0660: Christopher Brandt (South Portland) v. State of Maine, Department of Corrections (Augusta)	NRG
E13-0719: William Patterson (Brownville) v. McKusick Petroleum Company (Dover-Foxcroft)	NRG
E13-0728: Gail Small (Morrill) v. KeyBank National Association (Brooklyn, Ohio)	NRG
E14-0031: Jennifer Ouellette (Alton) v. State of Maine/Department of Health and Human Services/Dorothea Dix Psychiatric Center (Augusta)	NRG
H14-0571: Maria Enos and Warren O'Neal (Skowhegan) v. Oak Pond Apartments and Storage, Inc. (Canaan)	NRG