



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

March 1, 2010

Commissioner Vestal called the March 1, 2010 Commission meeting to order at 8:33 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, Joe Perry, and A. Mavourneen Thompson.

Commissioner Vestal called for adoption of the agenda.

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

CONSENT AGENDA (*see detailed listing on page 5*)

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 Perry moved, seconded by Commissioner Chandler, to adopt the January 11th Commission Meeting Minutes as amended. 4 in favor | 0 opposed.

ADMINISTRATION

- Personnel Report: Executive Director Patricia Ryan reviewed the report, dated February 22, 2010, indicating that the position of Office Associate II has been filled by Naomi Campbell.

COMPLIANCE

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

Commissioners reviewed Fran Davis' memo regarding E08-0332: Ouellette V. Staples, Inc. Commissioner Chandler moved, seconded by Commissioner Perry to dismiss this reasonable grounds case because the matter had been resolved between the parties.

Commissioner Chandler moved, seconded by Commissioner Perry to accept the Conciliation Agreement in Vannah v. New England Vending, Inc., World Wide Personnel Services of Maine, Inc., AsmaraHR, and TRSG, Inc. 4 in favor | 0 opposed.

INVESTIGATION

- New Charges: Commission staff opened 66 new cases in January.
- Administrative Dismissals: Commission staff administratively dismissed 11 cases in January.
- Pre-determination Settlements: During the months of January, investigators were responsible for obtaining settlements in 14 cases resulting in a total monetary relief in excess of \$140,710.

NEW BUSINESS:

There was no new business to discuss.

At 8:38 Chair Vestal called for a 7 minute recess.

CASES VOTED ON:

E08-0336: Christopher Plaice (New Gloucester) v. Bill Dodge Buick-Pontiac, Inc. (Westbrook). Christopher Place restated the position of the respondent. Attorney David Hirshon restated the position of the Respondent. Field Investigator Robert Beauchesne restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Complainant, Christopher Plaice, was subjected to unlawful discrimination in employment (terms and conditions of employment or termination) due to his physical disability. 3 in favor | 1 opposed. (Thompson opposed).

At 9:23 a.m. Commissioner Fredette joined the meeting.

E08-0372: Wendy Eckert (Bangor) v. University of Maine System (Bangor). Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney Kelly Wiltbank restated the position of the Respondent. Field Investigator Robert Beauchesne restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Perry to find reasonable grounds to believe that the Complainant Wendy Eckert, was subjected to illegal sexual harassment or retaliation by the Respondent as a result of the Complainant's whistleblowing in making a report of sexual harassment. 2 in favor | 3 opposed. (Vestal, Chandler, Fredette opposed). Motion Failed. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Complainant Wendy Eckert, was subjected to illegal sexual harassment or retaliation by the Respondent as a result of the Complainant's whistleblowing in making a report of sexual harassment. 3 in favor | 2 opposed. (Perry, Thompson opposed)

E08-0475: George Loder, Jr. (Scarborough) v. State of Maine/Maine State Police (Augusta). George Loader restated the position of the Complainant. Assistant Attorney General Melissa O'Dea restated the position of the Respondent. Commissioner Fredette moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, State of Maine, Department of Public Safety, Maine State Police, failed to promote Complainant, George W. Loader, Jr., because of whistleblower retaliation. 4 in favor | 0 opposed | 1 abstained (Vestal)

E08-0511: Janet Floyd (Cornish) v. Vulcan Electric Company (Porter). Attorney Mark Dunlap restated the position of the Respondent. Attorney Maria Fox restated the position of the Complainant. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find reasonable grounds to believe that the Respondent, Vulcan Electric Company, demoted Complainant and constructively discharged her, due to her age and gender. 2 in favor | 3 opposed (Vestal, Fredette, Thompson opposed). Motion Failed. Commissioner Fredette moved,

seconded by Commissioner Vestal to find no reasonable grounds to believe that the Respondent, Vulcan Electric Company, demoted Complainant and constructively discharged her, due to her age and gender. 3 in favor | 2 opposed. (Chandler, Perry opposed)

E08-0513: Lee Veilleux (Livermore Falls) v. MSAD 52 (Turner). Attorney Elly Burnett restated the position of the Complainant. Attorney Michael Poulin restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Thompson to find no reasonable grounds to believe that the Respondent, MSAD 52, recommended Complainant, Lee Veilleux's employment be terminated due to his age or physical disability. 5 in favor | 0 opposed. Commissioner Fredette moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, MSAD 52, denied Complainant a reasonable accommodation for his physical disability. 5 in favor | 0 opposed.

E08-0517: John Herald (Windham) v. Energy East Management Corp (NY)

E09-0098: John Herald (Windham) v. Energy East Corp (NY)

E09-0099: John Herald (Windham) v. Utility Shared Services Corporation (NY): Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney Katherine Rand restated the position of the Respondent. Field Investigator Michele Dion restated the facts of the case. Commissioner Fredette moved, seconded by Commission Chandler to find no reasonable grounds to believe that the Respondents, Energy East Management Company, Utility Shared Services Corporation, or Energy East Corporation, discriminated against Complainant, John Herald, on the basis of age or retaliated against him for filing a complaint of age discrimination. 5 in favor | 0 opposed.

PA08-0627: Barbara Hustus (Glenburn) v. State of Maine/DHHS (Bangor)

PA08-0627-A: Barbara Hustus (Glenburn) v. J. Cadman (Bangor): Attorney Michael Guare restated the position of the Complainant. Assistant Attorney General Susan Herman restated the position of the Respondent. Commissioner Fredette moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that Respondents, State of Maine, Department of Health and Human Services, and Janel Cadman, discriminated against Barbara Hustus because of her race, ancestry, and national origin. 5 in favor | 0 opposed.

E09-0120: Russell Bearor (Waterboro) v. City of Westbrook: Attorney Paul Boots restated the position of the Complainant. Attorney Robert Bower restated the position of the Respondent. Commissioner Chandler moved, seconded by Commissioner Fredette to find no reasonable grounds to believe that the Respondent, City of Westbrook, terminated Complainant, Russell L. Bearor's employment because of sex or that the Respondent denied the Complainant a reasonable accommodation for his disability. 5 in favor | 0 opposed.

E09-0227: Kimberly Olsen (Lewiston) v. Alternative Services Northeast, Inc. (Lewiston). Complainant was not present. Respondent was not present. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Alternative Services Northeast, Inc., retaliated against Complainant, Kimberly J. Olsen, because of her whistleblower activity. 5 in favor | 0 opposed.

E09-0232: Keith Whitmore (Gray v. TrueBlue, Inc. / Labor Ready Northeast, Inc. (WA)

E09-0233: Keith Whitmore (Gray) v. Inn Yarmouth LLC d/b/a Hampton Inn (Freeport): Complainant was not present. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe the respondents, Inn Yarmouth, LLC d/b/a Hampton Inn or TrueBlue, Inc./Labor Ready Northeast, Inc. terminated Complainant, Keith F. Whitmore's employment because of disability, retaliation or whistleblower retaliation. 5 in favor | 0 opposed.

At 10:48 a.m. Commissioner Vestal Called for a 10 minute break.

H09-0510: Daniel Mitchell (Bangor) v. Jay A. Smith, Inc./P. Gott (Brewer). Attorney Patricia Ender restated the position of the Complainant. Jay Smith restated the position of the Respondent. Field Investigator Angela Tizon restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Jay. A. Smth, Inc or Patricia Gott discriminated against Daniel Mitchell on the basis of his national origin or ancestry. 5 in favor | 0 opposed.

H08-0660(A-C): Henry Jackman & Amy Jackman (Berwick) v. Chuck Dog Realty Trst et al (MA): Attorney Patricia Ender restated the position of the Complainant. Respondent was not present. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Respondents Brian O'Neil or Chriss Anne Cormier subjected the Complainants, Henry and Amy Jackman, to unlawful housing discrimination based on disability or retaliated against them for filing a complaint of housing discrimination. 5 in favor | 0 opposed. Commissioner Fredette moved, seconded by Commissioner Chandler no reasonable grounds to believe that Respondents Abraham Schlosberg, Trustee, Chuck Dog Realty Trust, subjected the Complainants, Henry and Amy Jackman, to unlawful disability discrimination in the terms and conditions of rental based on disability, or denied them a reasonable accommodation. 5 in favor | 0 opposed. Commissioner Fredette moved, seconded by Commissioner Chandler **reasonable grounds** to believe that Respondents Abraham Schlosberg, Trustee, Chuck Dog Realty Trust, subjected the Complainants, Henry and Amy Jackman, to retaliation for filing a complaint of housing discrimination. 5 in favor | 0 opposed.

LITIGATION: Commissioners agreed to move this item to Executive Session.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Perry to move into executive session at to discuss litigation with Commission Counsel pursuant to 1 M.R.S.A.§405(6)(E). 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Fredette, to move out of executive session at 12:38 p.m. 5 in favor | 0 opposed.

Commissioner Fredette moved, seconded by Commissioner Chandler that the Commission **should not file** a complaint in E08-0469: Darcy Pinette v. Northeast Publishing Company (termination because of physical disability) 5 in favor | 0 opposed.

Commissioner Fredette moved, seconded by Commissioner Chandler that the Commission **should not file** a complaint in E08-0535, E08-0536: Brian Currie v. Anthem Blue Cross and Blue Shield & Wellpoint, Inc. 5 in favor | 0 opposed.

Commissioner Fredette moved, seconded by Commissioner Chandler that the Commission should file a complaint in H09-0134-A, B, Sheila Jacobson v. Bangor Housing Authority and Elsie Coffey. 5 in favor | 0 opposed.

In E08-0218, Susan Patti v. Coffee Couple, LLC, d/b/a Tim Hortons of Old Town; E08-0476, Brittany Corliss v. Coffee Couple, LLC, d/b/a Tim Hortons of Old Town, Calvin Boyle, and Karen Boyle; E08-0646, Anthony Verville v. Coffee Couple, LLC, d/b/a Tim Hortons of Houlton, and Calvin Boyle; E09-

0102, Jessica Page v. Coffee Couple, LLC, d/b/a Tim Hortons of Old Town; E09-0385-A, Michael Larson v. Calvin Boyle, Commissioner Fredette moved, seconded by Commissioner Chandler that the Commission should continue litigation of the Patti, Corliss, and Page complaints; amend the complaint to include a claim for the use of Verville; and, if conciliation fails, amend the complaint to include a claim for the use of Larson. 5 in favor | 0 opposed.

PROPOSED GUIDANCE: Sexual Orientation in Educational Institutions

Commission Counsel John Gause discussed revised Proposed Sexual Orientation Guidance for Schools and Colleges. Commissioner Thompson moved, seconded by Commissioner Chandler to hold a subsequent session to allow for public comment on the issue. 4 in favor | 1 opposed (Fredette opposed)

ADJOURN:

There being no further business to come before the Commission, the meetings was adjourned at 2:05 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.

E08-0304:	Elizabeth Owen (Augusta) v. Manchester Donuts LLC (Manchester)	NRG
E08-0304-A:	Elizabeth Owen (Augusta) v. Dunkin’ Brands, Inc. (MA)	NRG
E08-0304-B:	Elizabeth Owen (Augusta) v. Cafua Management Co. (MA)	NRG
E08-0386:	Eric Brousseau (Yarmouth) v. Chilton Furniture (Scarborough)	NRG
E08-0395:	Melissa Seidell (Bangor) v. Branches, LLC (Bangor)	NRG
E08-0419:	Michael Sullivan (S Berwick) v. York Ambulance Association, Inc. (York)	NRG
E08-0450:	David Turgeon (Springvale) v. The Baker Co (Sanford)	NRG
E08-0472:	Gregory Moore (Bar Harbor) v. The Hinckley Co. (Trenton)	NRG
PA08-0623:	Faud Umar (Waterville) v. Town of Winslow	NRG
E09-0042:	Amy Collins (Westbrook) v. Wal-Mart Stores East, LP (AR)	NRG
E09-0050:	Robert Buchanan (Portland) v. Direct Response/Cornerstone (Westbrook)	NRG
E09-0064:	Elizabeth Adams (Otisfield) v. Nouria Energy Retail Maine d/b/a Lil’ Mart (MA)	NRG
E09-0232:	Keith Whitmore (Gray) v. TrueBlue, Inc/Labor Ready Northeast, Inc (WA)	NRG
E09-0385-A:	Michael Larson (Houlton) v. Calvin Boyle (Houlton)	RG
H09-0129A/B/C:	Sue Winkleman (Hermon) v. First Bangor Housing Assoc et al (MA)	NRG
H09-0523:	Mark Hibbert (NJ) v. Colonial Mobile Home Park (Lebanon)	NRG
H09-0570:	Carroll & Tammy Parker (Lewiston) v. Umbria, LLC (Lewiston)	NRG
H08-0663:	Thomas Cobb (Portland) v. Julienne Mullen (Scarborough)	NRG
PA08-0262:	Parent of Minor, individually and o/b/o Minor child v. Maine Adoption Placement	NRG/RG