



Maine Human Rights Commission

51 State House Station - Augusta, ME 04333

Patricia E. Ryan
Executive Director

John P. Gause
Commission Counsel

COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

January 24, 2011

Commissioner Vestal called the January 24th, 2011 Commission meeting to order at 8:30 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, and Joe Perry.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Patricia Ryan requested that case PA09-0316: Walter Burch v. Denny's be tabled to the March Commission Meeting at the request of the parties.
- Executive Director Patricia Ryan requested that case E09-0281 Rusch v. Aroostook Medical Center be tabled to the March Commission Meeting at the request of the parties.
- Executive Director Patricia Ryan requested that case H10-0387 Michael Fournier v. Suzanne Rojas be moved to the first case on the Agenda to accommodate a conflict in schedule of investigator.

Commissioner Chandler moved, seconded by Commissioner Perry to adopt the agenda as amended. 3 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 Consent Agenda. 3 in favor | 0 opposed.

MINUTES

Commissioner Chandler moved, seconded by Commissioner Perry to adopt the December 13th Commission Meeting Minutes. 3 in favor | 0 opposed

QUARTERLY PROGRAM REVIEW

- Inventory Status Report & Resolutions: There were 586 open cases at the end of December 2010. The Commission closed 200 cases during the preceding quarter, 33 of those cases were closed providing some benefit to Complainants. The monetary amount recovered for Complainants during that time period was \$606,050.
- Training/Education: Commissioners reviewed the second 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: 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 13th, 2011 noting no significant personnel changes.

COMPLIANCE

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

- Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E09-0081: Henriquez Polycarpe v. Ricker Hill Orchards as the case has been resolved by the parties. 3 in favor | 0 opposed.
- Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E09-0082: Jean B. Renelus v. Ricker Hill Orchards as the case has been resolved by the parties. 3 in favor | 0 opposed
- Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E09-0083: Daverne St. Jean v. Ricker Hill Orchards as the case has been resolved by the parties. 3 in favor | 0 opposed
- Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E09-0084: Carmy Sylvain v. Ricker Hill Orchards as the case has been resolved by the parties. 3 in favor | 0 opposed
- Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E08-0627/0627-A: Hustus v. State of Maine/DHHS and J. Cadman as the case has been resolved by the parties. 3 in favor | 0 opposed
- Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E09-0235: Beacham v. Computer Services of Maine as the case has been resolved by the parties. 3 in favor / 0 opposed.

INVESTIGATION

- New Charges: Commission staff opened 56 new cases in December.
- Administrative Dismissals: Commission staff administratively dismissed 27 cases in December.
- Pre-determination Settlements: During the month December, staff were responsible for obtaining settlements in 10 cases resulting in total monetary relief in excess of \$ 22,500 for complainants.

NEW BUSINESS:

At 8:36 AM Chair Vestal called for a 10 minute recess.

CASES VOTED ON:

H10-0387: Michael Fournier (Waterville) v. Suzanne Rojas (Newport): Complainant was not present. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that the Respondent, Suzanne Rojas, discriminated against Complainants, Michael Fournier and Michael Sargent, because of their sexual orientation. 3 in favor | 0 opposed.

H09-0031-A/0031-B/0031-C/0031-D: Theodore Bigos (Palermo) v. American Legion Post #163 J. Querfeld; J. Doyle; R. Sailor (Palermo): Theodore Bigos restated the position of the Complainant. Respondent was not present. Commissioner Perry moved, seconded by Commissioner Chandler to find

no reasonable grounds to believe that American Legion Post 163, Jack Querfeld, John Doyle and Ronald Sailor retaliated against Theodore Bigos for assisting a friend in filing a complaint with the MHRC. 3 in favor | 0 opposed.

E09-0158: Michelle Prescott (Portland) v. Prudential Insurance Co of America (Portland): Attorney Nicholas Bull restated the position of the Complainant. Attorney James Erwin restated the position of the Respondent. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Complainant, Michele Prescott, was subjected to whistleblower retaliation by the Respondent, the Prudential Insurance Company of America. 3 in favor | 0 opposed.

At 9:08 Commissioner Thompson arrived at the meeting

E09-0277: Tara Bowen (Eastport) v. Invertercentral.com (Perry): Attorney Anne Carney restated the position of the Complainant. Attorney Paul Grimshaw 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 **reasonable grounds** to believe that the Complainant, Tara Bowen, was subject to discrimination by Respondent, InverterCentral.com because of her actual or perceived mental disability. 4 in favor | 0 opposed.

E09-0278: Louis Brown (S Portland) v. Staples, Inc. (MA): Louis Brown restated the position of the Complainant. Tara Leggy restated the position of the Respondent. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Staples, Inc. discriminated against Louis Brown on the basis of disability by terminating him. 4 in favor | 0 opposed. Commissioner Perry moved, seconded by Commissioner Chandler, to find no reasonable ground to believe that Staples, Inc. and Staples the Office Superstore East, Inc. retaliated against Louis Brown for filing a Charge with the Maine Human Rights Commission. 4 in favor | 0 opposed.

E09-0321: Annie Apt-Brackett (Perry) v. Eastport Memorial Nursing Home (Eastport): Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, Eastport Memorial Nursing Home terminated Complainant, Annie Apt-Brackett's employment because of whistleblower retaliation or that Respondent discriminated against Complainant in the terms and conditions of employment because of her race and national origin. 4 in favor | 0 opposed.

E09-0338: Kelly Chipman (Swanville) v. RH Miller, Inc. d/b/a Dudley's Diner (Belfast). Complainant was not present. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that RH Miller Inc. d/b/a Dudley's Diner, discriminated against Kelly Chipman on the basis of disability by terminating her. 4 in favor | 0 opposed.

E09-0413: Madeleine Bolduc (Winslow) v. CMAAA d/b/a Spectrum Generations (Waterville): Madeleine Bolduc restated the position of the Complainant. Respondent was not present. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, Central Maine Area Agency on Aging d/b/a Spectrum Generations, terminated Complainant, Madelene Bolduc's employment because of age or ancestry. 4 in favor | 0 opposed.

E09-0416/0417: Gregory Lunn (Brewer) v. Abby Corp d/b/a Beef 'O'Brady's (Brewer) / Gregory Lunn (Brewer) v. D. Kennedy (Brewer): Attorney Edward Gould restated the position of the Complainant. David Kennedy restated the position of the Respondent. Commissioner Thompson moved to find reasonable grounds to believe that the Respondents, Beef 'O' Brady's and David Kennedy discriminated against Complainant, Gregory Lunn, because of Whistleblower retaliation, or that he was constructively discharged. Motion was not seconded. Motion Failed. Commissioner Chandler moved,

seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondents, Beef 'O' Brady's and David Kennedy discriminated against Complainant, Gregory Lunn, because of Whistleblower retaliation, or that he was constructively discharged. 3 in favor | 1 opposed (Thompson opposed).

E09-0419: James Beaulieu (N Yarmouth) v. AFSCME Council 93 (MA): James Beaulieu and Attorney Rebecca Webber restated the position of the Complainant. Respondent was not present. Chief Field Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved there are reasonable grounds to believe that the Respondent, AFSCME Council 92, demoted Complainant, James Beaulieu, or placed him on administrative leave or terminated his employment because of mental disability or retaliation. Motion was not seconded, motion failed. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable ground to believe that the Respondent, AFSCME Council 92 suspended Complainant, James Beaulieu, in December 2008 and in April 2009 due to mental disability and retaliation and that the Respondent made unlawful medical inquiries of the Complainant on June 24, 2009. 3 in favor | 1 opposed (Thompson opposed). Commissioner Perry moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that the Respondent, AFSCME Council 92, suspended Complainant, James Beaulieu in December 2008 and in April 2009 due to mental disability and retaliation and that the Respondent made unlawful medical inquiries of the Complainant on June 24, 2009. 4 in favor | 0 opposed.

E09-0439: Derek Hyde (Auburn) v. Lafayette Auburn Inc. d/b/a Fireside Inn (Bangor). Derek Hyde and Attorney Rebecca Webber restated the position of the Complainant. Attorney Frank McGuire restated the position of the Respondent. Field Investigator Michelé Dion restated the facts of the case. Commissioner Thompson moved that there are reasonable ground to believe that Lafayette Auburn, Inc. d/b/a Fireside Inn & Suites discriminated against Derek Hyde on the basis of sexual orientation or disability. Motion was not seconded, motion failed. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Lafayette Auburn, Inc. d/b/a Fireside Inn & Suites discriminated against Derek Hyde on the basis of sexual orientation or disability. 3 in favor | 1 opposed. (Thompson opposed).

E09-0478: Wynter McPhail (Calais) v. Family Dollar, Inc. (NC): Attorney Julie Farr restated the position of the Complainant. Respondent was not present. Chief Field Investigator Barbara Lelli restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, family Dollar, Inc., is liable for sexual harassment, retaliation, whistleblower retaliation or constructive discharge of the Complainant, Wynter McPhail. 4 in favor | 0 opposed.

H10-0530: Darrell Eaton (Bangor) v. The Housing Foundation & D. Hayman (Orono): Complainant was not present. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondents, The Housing Foundation and Duska Hayman, retaliated against Complainant, Darrell Eaton. 4 in favor | 0 opposed.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Thompson to move into executive session at 11:29 p.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 11:53 a.m. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **should not file** a complaint to enforce in E009-0335, Coombs v. Drummond as stated in Litigation Memo dated January 18, 2011. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **should not file** a complaint in E09-0178: Ramirez v. State of Maine, DHHS as stated in Litigation Memo dated January 18, 2011. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **should not file** a complaint in E09-0211: Huntington v. Crisis and Counseling Center as stated in Litigation Memo dated January 18, 2011. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to accept the settlement agreement in PA07-0688 Zinke v. Eastern Frontier Education Foundation. 4 in favor | 0 opposed.

Commission Counsel John P. Gause reviewed two bills the Commission was considering submitting to the 125th Maine Legislature. The first bill titled “An Act to Amend the Maine Human Rights Act Accessible Building Standards” will bring the Maine Human Rights Act in compliance with ADA building regulations. The second bill titled “An Act to Amend the Housing Provisions of the Maine Human Rights Act”, proposes implementation of housing provisions to insure substantial equivalency between the Maine Human Rights Act and the US Department of Housing and Urban Development and eliminates provisions that differ between state and federal law.

ADJOURN:

There being no further business to come before the Commission, the meeting was adjourned at 12:10 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.

E09-0293: Wayne Thorne (E Sebago) v. Sabre Corp (S Casco)	NRG
E09-0386: Amber Fournier (Auburn) v. Collette’s Donut Shop d/b/a Dunkin’ Donuts (Lewiston)	NRG
E09-0389: Janice Myles (Mexico) v. H.C. Watson Corp d/b/a Interim Health Care (Augusta)	RG
E09-0390: Ashly Rolfe (Augusta) v. Goodwill Industries of Northern New England (Portland)	NRG
E09-0392: Larry Wooten (Auburn) v. Maine Turnpike Authority (Portland)	NRG
E09-0590: Kenneth Phipps (Standish) v. Windham Donuts, Inc. (Windham)	NRG
E09-0597: Eric Annas (Bangor) v. Bangor Abatement, Inc. (Hampden)	NRG
PA10-0100:Chris Bilynsky (Warren) v. State of Maine/Corrections/Maine State Prison	NRG
H10-0121: Roger McIntire (Phillips) v. Scott Pinkham (Phillips)	NRG/RG
H10-0221/0222:0223: David Daniel (Westbrook) v. Avesta Housing, Scotch Hill Assoc., C. Chamberlain and D. Perry (Portland)	NRG