



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

January 27, 2014

Commissioner Vestal called the January 27, 2014 Commission meeting to order at 8:32 a.m. Present were Chair Paul Vestal, Commissioners Sallie Chandler, Deborah Whitworth, and A. Mavourneen Thompson.

AGENDA

Executive Director Amy Sneirson requested that the following cases be tabled to the February 24, 2014 meeting agenda at the request of the parties.

- E11-0719: Linda Faas (Addison) v. Country Pride Cleaning Service, Inc. (Sebec)
- E12-0129: Paul Carignan (Pownal) v. Spurwink Services (Portland)
- E12-0451: Ruth Moreau (Dixmont) v. Coffee Break Café, LLC (Winterport)
- E12-0613: David Crockett (Skowhegan) v. Pan Am Railways, Inc. (Billerica, Massachusetts)

Case previously voted tabled to March 31, 2014 meeting: PA12-0004: June Ellis (Monmouth) v. Spectrum Generations (Augusta).

Commissioner Vestal called for adoption of the agenda as amended. Commissioner Thompson 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 Thompson, to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 4 in favor | 0 opposed.

MINUTES

Commissioner Thompson moved, seconded by Commissioner Chandler, to adopt the December 16, 2013 Commission Meeting Minutes. 4 in favor | 0 opposed.

QUARTERLY PROGRAM REVIEW

- Inventory Status Report & Resolutions: There were 636 open cases at the end of December. The Commission closed 122 cases during the preceding quarter including 28 settlements resulting in benefits to complainants of over \$178,000.
- Training/Education: Commissioners reviewed the quarterly report indicating that staff presented at 1 training session and attended 7 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.

ADMINISTRATION

Personnel Report: Executive Director Amy Sneirson reported that no significant personnel changes.

COMPLIANCE

Commissioners reviewed the compliance report showing one successful conciliation, 5 unsuccessful conciliations, and nine conciliations in progress. It was placed on file.

Commissioner Chandler moved, seconded by Commissioner Whitworth, to approve the conciliation agreement in PA12-0575 Greenwald v. Greyhound Lines, Inc. 4 in favor | 0 opposed.

INVESTIGATION

New Charges: Commission staff opened 52 new cases in December.

Administrative Dismissals: The Executive Director administratively dismissed 20 cases in December.

Pre-determination Settlements: Since November 29, 2013, 15 cases resulted in settlements with total monetary relief in excess of \$153,629 for complainants.

NEW BUSINESS

Commissioner Chandler moved, seconded by Commissioner Thompson, to reconsider adoption of the rule amendments to Chapter 3, Employment Regulations (repeal and replace), and to Chapter 2, the Commission's Procedural Rule (to allow the Commission to receive payment by parties for mediations). 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson, to approve the rule amendments and basis statements to Chapter 3, Employment Regulations (repeal and replace), and to Chapter 2, the Commission's Procedural Rule (to allow the Commission to receive payment by parties for mediations). 4 in favor | 0 opposed.

At 8:41 a.m. Commissioner Chandler called for a five minute recess.

CASES VOTED ON 8:38 A.M.:

E12-0009: Peter Doak (Columbia Falls) v. Maine School Administrative District No. 19 (Calais). Attorney Peter Lowe restated the position of the Complainant. Attorney Tom Trenholm restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Maine School Administrative District 19 discriminated against Peter Doak on the basis of age by terminating his employment. 4 in favor | 0 opposed. Commissioner Thompson moved to find reasonable grounds to believe that Maine School Administrative District 19 retaliated against Peter Doak in violation of the Maine Whistleblowers' Protection Act by terminating his employment; the motion was not seconded, and failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Maine School Administrative District 19 retaliated against Peter Doak in violation of the Maine Whistleblowers' Protection Act by terminating his employment. 3 in favor | 1 opposed. (Thompson opposed)

E12-0114: Kimberly Adkins (Lebanon) v. Atria Senior Living, Inc. (Kennebunk); E12-0115: Kimberly Adkins (Lebanon) v. Jan Peterson (Kennebunk): Attorney Chad Hansen restated the position of the Complainant. Attorney Michael Passarella restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Vestal, to find no reasonable grounds to believe that Complainant Kimberly A. Adkins was subject to unlawful discrimination on the basis of sex or sexual orientation (terms and conditions of employment) by Respondent Atria Senior Living or Respondent Jan Peterson and no reasonable grounds to believe Complainant was subjected to unlawful retaliation by Respondents because she reported what she believed to be protected activity under the Whistleblowers' Protection Act and/or an assertion of rights protected under the Maine Human Rights Act. 3 in favor | 0 opposed | 1 Abstained (Chandler Abstained).

E12-0251: Joni McNutt (South Portland) v. Bottomline Technologies (Portsmouth, NH). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Complainant Joni G. McNutt was subjected to unlawful disability discrimination in employment, or to retaliation under the MHRA, by Respondent Bottomline Technologies. 4 in favor | 0 opposed.

E12-0486: David Tanguay (Falmouth) v. City of Portland (Portland). Attorney Jennifer Thompson restated the position of the Respondent. David Tanguay restated the position of the Complainant. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that Respondent City of Portland is liable for sexual harassment of Complainant David M. Tanguay. 4 in favor | 0 opposed.

E12-0491: Katherine Early (Portland) v. The Cedars (Portland). Katherine Early restated the position of the Complainant. Respondent did not appear. 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 The Cedars discriminated against Complainant Katherine Earley because of her age by failing to assign her the shift she desired. 4 in favor | 0 opposed.

E12-0515: Jean Beadle (Roxbury) v. Regional School Unit 10 (Dixfield). Attorney Elly Burnett restated the position of the Complainant. Attorney Tom Trenholm restated the position of the Respondent. Investigator Victoria Ternig restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Regional School Unit 10 terminated Complainant Jean Beadle's employment because of her sex or age. 4 in favor | 0 opposed.

E12-0516: Judith Perry (Clinton) v. Mount St. Joseph (Waterville). Judith Perry restated the position of the Complainant. Attorney Gregg Frame restated the position of the Respondent. Investigator Victoria Ternig restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Mount St. Joseph retaliated against Complainant Judith Perry in violation of the Maine Human Rights Act and Maine Whistleblower's Protection Act because she engaged in protected activity. 4 in favor | 0 opposed.

E12-0578: Kathleen Leavis (Portland) v. Hospice of Southern Maine (Scarborough). Attorney Elly Burnett restated the position of the Complainant. Attorney Tim O'Brien restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Hospice of Southern Maine discriminated against Complainant Kathleen Leavis on the basis of disability, or retaliated against her for asserting her rights under the MHRA. 3 in favor | 0 opposed | 1 abstained (Chandler abstained).

E12-0602: Lisa Bouffard (Westbrook) v. HD Acquisition Inc d/b/a Big Moose Harley Davidson (Portland). Lisa Bouffard restated the position of the Complainant. Attorney Elizabeth Ernst restated the position of the

Respondent. Investigator Victoria Ternig restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe Respondent H.D. Acquisition, Inc. d/b/a/ Big Moose Harley Davidson terminated Complainant Lisa Bouffard's employment because of her sex or age in violation of the Maine Human Rights Act. 4 in favor | 0 opposed. Commissioner Thompson moved to find reasonable grounds to believe that Respondent H.D. Acquisition, Inc. d/b/a/ Big Moose Harley Davidson subjected Complainant Lisa Bouffard to a hostile work environment based on sex in violation of the Maine Human Rights Act; the motion was not seconded, and failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent H.D. Acquisition, Inc. d/b/a/ Big Moose Harley Davidson subjected Complainant Lisa Bouffard to a hostile work environment based on sex in violation of the Maine Human Rights Act. 3 in favor | 1 opposed (Thompson opposed). Commissioner Whitworth moved, seconded by Commissioner Chandler, to find Respondent H.D. Acquisition, Inc. d/b/a Big Moose Harley Davidson terminated Complainant Lisa Bouffard's employment because she engaged in protected whistleblower activity in violation of the Whistleblowers' Protection Act or Maine Human Rights Act. 4 in favor | 0 opposed.

At approximately 11:30 Commissioner Whitworth left the meeting.

CASES TO BE VOTED ON 12:45 P.M.

H13-0062: Bemnet Damte & Katherine Morgan (Portland) v. Cheunglui "Howard" Yee (Portland). Complainant Bemnet Damte restated the position of Complainants. Attorney John Branson restated the position of Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Cheunglui Yee has subjected Complainants Bemnet Damte and Katherine Morgan to a hostile housing environment based on race and/or religion. 3 in favor | 0 opposed.

E13-0173: Ray Brown (Lewiston) v. East Branch Delivery Services, Inc. (Auburn). Complainant was present, but declined to restate his position. Attorney John Cole restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe East Branch East Branch Delivery Services, Inc. failed or refused to hire Complainant Ray E. Brown because of his age. 2 in favor | 1 opposed. (Vestal opposed.) Commissioner Chandler moved, seconded by Commissioner Thompson, to find **reasonable grounds** to believe that Respondent East Branch East Branch Deliver Services, Inc. used an application that elicited information pertaining to age prior to Complainant's employment. 3 in favor | 0 opposed.

PA13-0184: Hannah Muthyala v. Mercy Health System of Maine (Portland) and PA13-0227: John Muthyala v. Mercy Health System of Maine (Portland): Attorney Julia Pitney restated the position of Complainants. Attorney Katharine Rand restated the position of Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Mercy Health System of Maine denied Complainant Hannah Muthyala equal access to a public accommodation on the basis of race, color or national origin. 3 in favor | 0 opposed. Commissioner Thompson moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Mercy Health System of Maine denied Complainant John Muthyala equal access to a public accommodation on the basis of race, color or national origin. 3 in favor | 0 opposed.

E13-0296: Lana Smith (Bowdoinham) v. State of Maine, Bureau of Motor Vehicles (Augusta): Complainant was not present. Commissioner Thompson moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that the Respondent State of Maine/Bureau of Motor Vehicles retaliated against Complainant Lana Smith in violation of the Maine Human Rights Act and Maine Whistleblowers Protection Act because she engaged in protected activity. 3 in favor | 0 opposed.

E13-0359: Diane Gousse (Fairfield) v. Main Security Surveillance, Inc. (Augusta). Attorney Chad Hansen restated the position of the Complainant. Scott Ward, supervisor for Respondent, restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Main Security Surveillance, Inc. discriminated against Complainant Diane Gousse on the basis of her disability. 3 in favor | 0 opposed.

E13-0377: Kerry Millay (Surry) v. Community Health & Counseling Services (Bangor): Kerry Millay restated the position of the Complainant. Attorney Anne Marie Storey restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Community Health and Counseling Services retaliated against Complainant Kerry B. Millay for engaging in protected activity under the WPA. 3 in favor | 0 opposed.

H13-0383: Jennifer & Hamid Taghavidinani v. C & C Management, LLC and Heath Street Associates, LP. Jennifer Taghavidinani restated the position of the Complainants. Lisa Davies restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that C & C Management, LLC and Heath Street Associates, LP, discriminated against Jennifer Taghavidinani and Hamid Taghavidinani by failing to provide a reasonable accommodation for Complainant's disability or to believe that C & C Management, LLC, and Heath Street Associates, LP, are liable for retaliation against Jennifer Taghavidinani and Hamid Taghavidinani for filing a complaint with the Maine Human Rights Commission. 3 in favor | 0 opposed.

EXECUTIVE SESSION:

At 11:18 a.m. Commissioner Chandler moved, seconded by Commissioner Thompson, to move into executive session to discuss litigation with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 4 in favor | 0 opposed.

At approximately 11:30 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to come out of executive session. 4 in favor | 0 opposed.

LITIGATION:

Commissioner Thompson moved, seconded by Commissioner Whitworth, not to file a complaint in the "reasonable grounds" cases:

- E12-0507: Nurr v. Sam's Club/Walmart Stores, Inc., (RG on sexual harassment, NRG on race/color/national origin)
- E12-0623: Tracy v. Casco Bay Island Transit District (WPA)
- E11-0545; -0543; -0544; Martin, Parker, and Phippen v. Boulevard Motel Corp. d/b/a Comfort Inn South Portland Hotel.

4 in favor | 0 opposed

ADJOURNMENT:

There being no further business to come before the Commissioner Chandler moved, seconded by Commissioner Thompson to adjourn the meeting the meeting at 2:45 PM. 3 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

E12-0010: Marcia Adair (South Berwick) v. Maine School Administrative District No. 35 (Eliot)	NRG
E12-0056: Michael LaFountain (Eddington) v. WG Hall, LLC d/b/a @Work Personnel Services, Inc.(Brewer)	NRG
E12-0057: Michele Tremblay (Sanford) v. Counseling Services, Inc. (Saco)	NRG
E12-0059: Andrea Boynton (Coopers Mills) v. Maine Avenue Corporation, Inc. d/b/a Captain Lewis (Farmingdale)	NRG
E12-0079: Kevin Tims (Dalton, Georgia) v. Pine State Trading Co. (Augusta)	NRG
E12-0141: Brandon Small (Westbrook) v. Kamco Supply Corporation of Boston (Portland)	NRG
E12-0194: James McGirr (Portland) v. KeyBank National Association (Portland)	NRG
E12-0217: Candy Hull (Brunswick) v. Sally Beauty Supply, LLC (Topsham)	NRG
E12-0218: Paula Graham (Newport) v. Bath & Body Works, LLC (Bangor)	NRG
E12-0225: Aaron Davis (Ellsworth) v. Van Syckle, Inc. (Bangor)	NRG
E12-0280: Dana Young (Winterport) v. C-B Kenworth, Inc. (South Portland)	NRG
E12-0501: Jamie St. Louis (Biddeford) v. Michaels Stores, Inc. # 1084 (Biddeford)	NRG
E13-0057: Shealena Blake (Leeds) v. Carbonite, Inc. (Lewiston)	NRG
E13-0198: Rebecca Miller (Old Orchard Beach) v. Southern Maine Medical Center (Biddeford)	NRG
E13-0436: Leah Thurlow (Berwick) v. Sokunthy Yean (South Portland)	NRG
H13-0585: Janalee Brown (Norway) v. Thomas Paine, Sr. (Norway)	RG
H13-0586: Janalee Brown (Norway) v. Jonathan Paine (Norway)	RG
H13-0587: Janalee Brown (Norway) v. Steven Paine (South Paris)	NRG
H13-0588: Janalee Brown (Norway) v. Thomas Paine, Jr. (Poland)	RG