



# Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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## COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

**February 25, 2013**

Commissioner Vestal called the January 14, 2013 Commission meeting to order at 8:29 a.m. Present were Commissioners Paul Vestal, Sallie Chandler, Mavourneen Thompson, and Deborah Whitworth.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Amy Sneirson requested that case E12-0219: Joseph Gahagan (Wells) v. Henrietta D. Goodall Hospital (Sanford) be tabled to the April 8<sup>th</sup> Agenda.
- Executive Director Amy Sneirson requested that case PA11-0237: Bruce Archer (Presque Isle) v. Great Wall Buffet (Augusta) be taken first on the agenda.
- Executive Director Amy Sneirson requested that the following case(s) be taken last on the agenda to accommodate Complainant's counsel's schedule.

E11-0379: William Brzozowski (Bucksport) v. Maine Staffing Group (Bangor),

E11-0380: William Brzozowski (Bucksport) v. Gald Block Warehouse Company (Bangor)

E11-0381: William Brzozowski (Bucksport) v. Project Staffing, Inc. (Brunswick)

- Executive Director Amy Sneirson requested that case E11-0200: Janet Tenney (Coos Bar, OR) v. North Country Management d/b/a Burger King (Orono) be tabled to the April 8th Agenda.
- Commissioner Chandler moved, seconded by Commissioner Thompson, to issue a right-to-sue letter in case E11-0221: Sarah Nedeau (Byron) v. Carey & Associates, P. A. (Rumford). Executive Director Amy Sneirson requested that case be removed from the Agenda. 4 in favor | 0 opposed.
- Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the agenda as amended. 4 in favor | 0 opposed.

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

- Executive Director Amy Sneirson presented Complainants' written request that the Commissioners consider argument in H12-0566 through H12-0573 where neither Complainants nor Respondents filed written submission before the deadline and as such, the cases appear on the Consent Agenda where no argument will be heard. Commissioner Chandler moved, seconded by Commissioner Thompson, to leave the cases on the Consent Agenda. 3 in favor | 0 opposed | 1 Abstained (Commissioner Whitworth abstained).

- Commissioner Chandler moved, seconded by Commissioner Whitworth, to accept the Investigator's recommendations in each of the cases on the Consent Agenda as amended. 4 in favor | 0 opposed.

## **MINUTES:**

Commissioner Chandler moved, seconded by Commissioner Thompson, to adopt the January 14, 2013 Commission Meeting Minutes. 4 in favor | 0 opposed.

## **ADMINISTRATION:**

Personnel Report: Executive Director Amy Sneirson reported that Investigator Victoria Sarfo-Kantanka joined the Commission. There were no other significant personnel changes.

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

## **INVESTIGATION:**

New Charges: Commission staff opened 49 new cases in January 2012.

Administrative Dismissals: Commission staff dismissed 18 cases in January 2012.

Pre-determination Settlements: Since January 8, 2013, staff was responsible for obtaining settlements in 10 cases resulting in total monetary relief in excess of \$110,330 for complainants.

## **NEW BUSINESS:**

Executive Director Amy Sneirson reviewed proposed revisions to the Commission's Third-Party Neutral Mediation Program Handbook. Commissioners Chandler moved, seconded by Commissioner Thompson, to approve the proposed revisions to the Third-Party Neutral Mediation Program Handbook. 4 in favor | 0 opposed.

At 8:45 Commissioner Clark arrived at the meeting.

Executive Director Amy Sneirson suggested reviewing proposed Financial Policies and Procedures after the contested cases were heard.

**LITIGATION:** Moved to after Executive Session.

At 8:37 AM Commissioner Vestal called for a seven-minute recess.

## **CASES VOTED ON:**

PA11-0237: Bruce Archer (Presque Isle) v. Great Wall Buffet (Augusta): Attorney John Topchik restated the position of the Respondent. Attorney Kristin Aiello restated the position of the Complainant. Investigator Dion restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find **REASONABLE GROUNDS** to believe that Respondent Great Wall Buffet discriminated against Mr. Archer on the basis of disability. 5 in favor | 0 opposed.

E11-0159: James Frank (Washington) v. Island Institute/Port Clyde Community Groundfish (Rockland), and E11-0160: Susan Frank (Washington) v. Island Institute/Port Clyde Community Groundfish (Rockland). Susan Frank restated the position of the Complainants. Attorney Michael Boyd restated the position of the

Respondent. Investigator Dion restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Island Institute/Port Clyde Community Groundfish retaliated against Complainants James Frank and Susan Frank for engaging in protected whistleblower activity. 5 in favor | 0 opposed.

E11-0218: Michael Mileski (Buxton) v. Maine Turnpike Authority (Portland). Attorney David Webbert restated the position of the Complainant. Attorney Patricia Dunn restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Complainant Michael Mileski was subjected to unlawful disability discrimination in employment, or retaliation based upon alleged prior acts of protected whistleblower activity, by Respondents Maine Turnpike Authority. 5 in favor | 0 opposed.

E11-0288: Scott Wels (Waterford) v. Boehringer Ingelheim Pharmaceuticals, Inc. (Ridgefield, CT). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Scott T. Wels was subject to illegal sexual harassment, quid pro quo, or hostile work environment, by the Respondent Boehringer Ingelheim Pharmaceuticals, Inc, and no reasonable grounds to believe that Complainant Scott T. Wels was forced to resign (constructively discharged) from Boehringer Ingelheim Pharmaceuticals, Inc, and no reasonable grounds to believe that Respondent Boehringer Ingelheim Pharmaceuticals, Inc. Subject Complainant Scott T. Wels to unlawful retaliation (job application not considered) because of a prior report of sexual harassment. 5 in favor | 0 opposed.

E11-0481: Torrey Harrison (Portland) v. Granite Bay Care, Inc. (Portland). Torrey Harrison restated the position of the Complainant. Kenneth Olson restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Complainant Torrey Harrison was subjected to unlawful retaliation based upon alleged prior acts of protected whistleblower activity by Respondent Granite Bay Care, Inc. 4 in favor | 0 opposed | 1 abstained (Chandler Abstained).

Case H12-0230: Alla Shuper (Falmouth) v. Rebecca Chandler (Hollis Center) moved to later in the agenda at the request of the Complainant.

E12-0145: Lavana Snyder (Rockport) v. State of Maine, Department of Administrative & Financial Services, Office of Information Technology (Augusta). Attorney David Webbert restated the position of the Complainant. Attorney Kelly Turner restated the position of the Respondent. Commissioner Thompson moved, seconded by Commissioner Clark, to find reasonable grounds to believe that Respondent State of Maine, Department of Administrative and Financial Services, Office of Information Technology retaliated against Complainant Lavana Snyder for engaging in protected whistleblower activity. 2 in favor | 3 opposed. (Chandler, Vestal and Whitworth Opposed). Motion failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent State of Maine, Department of Administrative and Financial Services, Office of Information Technology retaliated against Complainant Lavana Snyder for engaging in protected whistleblower activity. 3 in favor | 2 opposed. (Thompson, Clark opposed).

E11-0379: William Brzozowski (Bucksport) v. Maine Staffing Group (Bangor), and  
E11-0380: William Brzozowski (Bucksport) v. Galt Block Warehouse Company (Bangor), and  
E11-0381: William Brzozowski (Bucksport) v. Project Staffing, Inc. (Brunswick). Attorney Lisa Butler restated the position of the Complainant. Attorney Seth Harrow restated the position of the Respondents. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that the Complainant was terminated due to disability, or subjected to retaliation by Respondents Project Staffing, Inc., or Respondent Maine Staffing Group. 5 in favor | 0 opposed. Commissioner Whitworth moved to find no reasonable grounds to believe that the Complainant William Brzozowski was subjected to unlawful discrimination, as well as unlawful retaliation, by the Respondent Galt Block Warehouse Company. Motion was not seconded, motion failed. Commissioner Chandler moved, seconded by Commissioner Clark, to find **REASONABLE GROUNDS** to believe that Complainant William Brzozowski was subjected to unlawful

discrimination, as well as unlawful retaliation, by Respondent Galt Block Warehouse Company. 4 in favor | 1 opposed (Whitworth opposed).

H12-0230: Alla Shuper (Falmouth) v. Rebecca Chandler (Hollis Center). Alla Shuper restated the position of the Complainant. Attorney Michelle Bush restated the position of the Respondent. Executive Director Amy Sneirson restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Rebecca Chandler retaliated against Alla Shuper in related to a previous housing complaint. 5 in favor | 0 opposed.

### **NEW BUSINESS, CONTINUED.**

Executive Director Amy Sneirson reviewed the Commission's draft Financial Policies and Procedures as required by 5 M.R.S. §§12021-12024 (2013), mandating new statutory requirements for the management of quasi-independent state entities. Commissioner Chandler moved, seconded by Commissioner Thompson, to adopt the proposed Financial Policies and Procedures as required by 5 M.R.S. §§12021-12024 (2013). 5 in favor | 0 opposed.

### **EXECUTIVE SESSION:**

Commissioner Chandler moved, seconded by Commissioner Whitworth, to move into executive session at 11:13 a.m. to discuss litigation with Commission Counsel pursuant 1 M.R.S.A. §405(6)(E). 5 in favor | 0 opposed.

At approximately 11:37 a.m. Commissioner Chandler moved, seconded by Commissioner Thompson, to come out of executive session. 5 in favor | 0 opposed.

### **LITIGATION:**

Commissioner Chandler moved, seconded by Commissioner Thompson, for the Commission to file a court complaint in the "reasonable grounds" case H11-0327, Marcy Runnells, Ricky Emery, and Emery/Runnells o/b/o three minor children v. Elmer McAuliffe (unlawful inquiries, unlawful statements, and refusing to negotiate with and refusing to rent to the complainants on the basis of familial status). 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson, for the Commission not to file a complaint in the "reasonable grounds" case E11-0648, Rasmussen v. Don's Sheet metal, Inc., because the complainant is represented by competent private counsel. 5 in favor | 0 opposed.

### **RULEMAKING:**

At 12 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to call the public hearing on the proposed amendments to the Commission's Procedural Rule (Chapter 2) and Housing Rule (Chapter 8) to order. 5 in favor | 0 opposed. No public comment was offered, or received. Commissioner Chandler moved, seconded by Commissioner Whitworth, to close the Proposed Housing Rule hearing to close. 5 in favor | 0 opposed.

### **ADJOURN:**

There being no further business to come before the Commission, Commissioner Chandler moved, seconded by Commissioner Whitworth, to adjourn the meeting. 5 in favor | 0 opposed.  
The meeting was adjourned at 12:02 PM.

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

- PA11-0087: Teresa Valente o/b/o Mark Valente (Portland) v. State of Maine Department of Health & Human Services (Augusta) .....NRG
- PA11-0088: Teresa Valente o/b/o Mark Valente (Portland) v. Goodwill Industries of Northern New England (Portland) .....NRG
- E11-0148: Mary Gideon (Lewiston) v. Correctional Medical Services (St. Louis, Mo).....NRG
- E11-0149: Mary Gideon (Lewiston) v. Wayne Ward (St. Louis, Mo)
- E11-0235: Patricia Bleech (Portland) v. Baker Newman & Noyes, P.A., LLC (Portland) .....NRG
- E11-0255: Tonya Joy (Scarborough) v. James DiFillippo, DMD (Portland) .....NRG
- E11-0355: Jason Tardif (Sabattus) v. Harraseeket Inn, Inc, (Freeport) .....NRG
- E11-0417: Daniel Audet (New Gloucester) v. Falmouth Operations LLC d/b/a Sedgewood Commons (Falmouth) .....NRG
- E11-0700: Ray Brown (Lewiston) v. RJF Morin Brick, LLC (Auburn) .....**RG/NRG**
- E12-0160: Charles Heath, Jr. (Stacyville) v. Town of Sherman (Sherman) .....NRG
- E12-0160-A: Charles Heath, Jr. (Stacyville) v. Sherman Volunteer Fire Department (Sherman) ....NRG
- E12-0182: Charles Heath, Jr. (Stacyville) v. Todd Hayes (Sherman) .....NRG
- E12-0183: Clinton Robinson (Stacyville) v. Town of Sherman (Sherman) .....NRG
- E12-0183-A: Clinton Robinson (Stacyville) v. Sherman Volunteer Fire Department (Sherman)....NRG
- E12-0184: Clinton Robinson (Stacyville) v. Todd Hayes (Sherman) .....NRG
- H12-0480: Floyd Junkins (Augusta) v. Realty Resources Management/ Water Street Apartment, LLC & Laura Hockett (Rockport) .....NRG
- H12-0566: Glenn Hamilton (Naples, Fl.) v. Aqua Cove Mortgage Corporation/William Fox & Mary Strutz (Naples, Fl.) .....NRG
- H12-0568: Glenn Hamilton (Naples, Fl.) v. Remax By The Bay/ David Banks/Karen Moynihan/ Holly Steele/ Jessica Vamvakias/ Peter Blake/ Melodie Brown & Michael Banks (Falmouth, Portland) .....NRG
- H12-0569: Gary & Shannon Auritt (Falmouth) v. Aqua Cove Mortgage Corporation/William Fox & Mary Strutz (Naples, Fl.) .....NRG
- H12-0570: Gary & Shannon Auritt (Falmouth) & Glenn Hamilton (Naples, Fl.) v. Adam S. Taylor (Portland) .....NRG

- H12-0571: Gary & Shannon Auritt (Falmouth) v. Remax By The Bay/ David Banks/Karen Moynihan/ Holly Steele/ Jessica Vamvakias/ Peter Blake/Melodie Brown & Michael Banks (Falmouth, Portland) .....NRG
- H12-0573: Gary & Shannon Auritt (Falmouth) v. Christopher & Brandi Hau (Falmouth) .....NRG
- H12-0567: Gary & Shannon Auritt (Falmouth) & Glenn Hamilton (Naples, Fl.) v. Andre G. Duchette (Portland) .....NRG