



Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

September 23, 2013

Commissioner Vestal called the September 23, 2013 Commission meeting to order at 8:32 a.m. Present were Commissioners Paul Vestal, Sallie Chandler, Deborah Whitworth, A. Mavourneen Thompson and Arnold Clark.

AGENDA

Executive Director Amy Sneirson requested that case E11-0729: Malcolm Carey (Newcastle) v. University of Maine System (Farmington) be tabled to the November 4, 2013 agenda.

Commissioner Vestal called for adoption of the agenda as amended. Commissioner Thompson moved, seconded by Commissioner Chandler, to adopt the agenda. 5 in favor | 0 opposed.

CONSENT AGENDA (see detailed listing on page 6)

Commissioner Chandler moved, seconded by Commissioner Clark, to accept the Investigator's recommendations in each of the cases on the amended Consent Agenda. 5 in favor | 0 opposed.

MINUTES:

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the August 5, 2013 Commission Meeting Minutes. 5 in favor | 0 opposed.

ADMINISTRATION:

Personnel Report: Executive Director Amy Sneirson reported that two externs from the University of Maine School of Law, Emily Gaewsky and Alison Tozier, will be spending the semester at the Commission. John P. Gause's last day as Commission Counsel will be October 4, 2013.

Executive Director Amy Sneirson asked that the Commissioners formally appoint new Commission Counsel and set her remuneration, pursuant to 5 M.R.S. § 4566(3). Commissioner Chandler moved, seconded by Commissioner Clark, to appoint Barbara Archer Hirsh as Public Service Coordinator III - Confidential, Commission Counsel, effective on October 7th, and to set her remuneration at Grade 34, Step 4. 5 in favor | 0 opposed.

COMPLIANCE:

Commissioners reviewed the compliance report and it was placed on file, showing one successful conciliation, two unsuccessful conciliations, and three conciliations in progress.

INVESTIGATION:

New Charges: Commission staff opened 55 new cases in August 2013.

Administrative Dismissals: 12 cases were administratively dismissed in August 2013.

Pre-determination Settlements: Since July 22, 2013, 28 cases resulted in settlements with total monetary relief in excess of \$201,785 for complainants.

NEW BUSINESS:

Commission Counsel John Gause reviewed proposed changes to the Commission's procedural rules and amendments to the Commission's employment regulations. The Commission will be placing the proposed changes out for public comment and will hold a public hearing on the proposed rules at the Commission's next meeting on November 4, 2013.

At 8:39 AM Commissioner Vestal called for a 7 minute recess.

CASES VOTED ON 8:45 A.M.:

PA11-0459: Christopher Boucher (Westbrook) v. Goodwill Industries of Northern New England (Portland): Attorney Beth Gallie restated the position of the Complainant. Attorney Glenn Israel restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Goodwill Industries of Northern New England discriminated against Christopher Boucher by refusing him a reasonable modification necessary to afford him full access to a place of public accommodation. 5 in favor | 0 opposed.

PA11-0458: Christopher Boucher (Westbrook) v. State of Maine Department of Health and Human Services (Augusta). Attorney Beth Gallie restated the position of the Complainant. Assistant Attorney General Kelly Turner restated the position of the Respondent. Commissioner Clark moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that State of Maine DHHS discriminated against Christopher Boucher by refusing him a reasonable modification necessary to afford him full access to the public entity or place of public accommodation. 5 in favor | 0 opposed.

E11-0543: Brenda Pippin (South Portland) v. Boulevard Motel Corp. d/b/a Comfort Inn South Portland Hotel (Silver Spring, MD). Attorney Michelle Bush restated the position of the Respondent. Attorney Patricia Dunn restated the position of the Complainant. Chief Investigator Barbara Lelli (for Investigator Michele Dion) restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Clark, to find **reasonable grounds** to believe that Respondent Boulevard Motel Corp. d/b/a Comfort Inn unlawfully retaliated against Complainant Brenda Pippins for engaging in protected activity under the Maine Human Rights Act and the Whistleblowers' Protection act by terminating her employment. 5 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to find Respondent Boulevard Motel Corp. d/b/a Comfort Inn discriminated against Complainant Brenda Pippins due to age or sex. 5 in favor | 0 opposed.

E11-0544: Abinair Martin (Gray) v. Boulevard Motel Corp. d/b/a Comfort Inn South Portland Hotel (Silver Spring, MD). Attorney Michelle Bush restated the position of the Respondent. Attorney Patricia Dunn restated the position of the Complainant. Chief Investigator Barbara Lelli (for Investigator Michele Dion) restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find **reasonable grounds** to believe that Respondent Boulevard Motel Corp. d/b/a Comfort Inn unlawfully

retaliated against Complainant Abinair Martin for engaging in protected activity under the Maine Human Rights Act and the Whistleblowers' Protection Act by terminating her employment. 5 in favor | 0 opposed. Commissioner Clark moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Boulevard Motel Corp. d/b/a Comfort Inn discriminated against Complainant Abinair Martin due to age, sex, race and color. 5 in favor | 0 opposed.

E11-0546: Mary Parker (South Windham) v. Boulevard Motel Corp. d/b/a Comfort Inn South Portland Hotel (Silver Spring, MD): Attorney Michelle Bush restated the position of the Respondent. Attorney Patricia Dunn restated the position of the Complainant. Chief Investigator Barbara Lelli (for Investigator Michele Dion) restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Boulevard Motel Corp. d/b/a Comfort Inn retaliated against Complainant Mary Parker for engaging in activity protected by the Maine Human Rights Act and Whistleblowers' Protection Act by terminating her employment. 5 in favor | 0 opposed. Commissioner Clark moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Boulevard Motel Corp. d/b/a Comfort Inn discriminated against Complainant Mary Parker due to age or sex. 5 in favor | 0 opposed.

E11-0545: Grace Parker (Westbrook) v. Boulevard Motel Corp. d/b/a Comfort Inn South Portland Hotel (Silver Spring, MD): Attorney Michelle Bush restated the position of the Respondent. Attorney Patricia Dunn restated the position of the Complainant. Chief Investigator Barbara Lelli (for Investigator Michele Dion) restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Thompson, to find **reasonable grounds** to believe that Respondent Boulevard Motel Corp. d/b/a Comfort Inn unlawfully retaliated against Complainant Grace Parker for engaging in activity protected by the Maine Human Rights Act and Whistleblowers' Protection Act by terminating her employment. 5 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Boulevard Motel Corp. d/b/a Comfort Inn discriminated against Complainant Grace Parker due to age or sex. 5 in favor | 0 opposed.

E11-0584: Herbert Buck (Stillwater) v. City of Old Town (Old Town). Attorney Carol Garvan restated the position of the Complainant. Attorney Frederick Costlow restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe the City of Old Town discriminated against Herbert Buck on the basis of disability by terminating his employment. 5 in favor | 0 opposed. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that City of Old Town unlawfully retaliated against Herbert Buck by terminating his employment after he asserted his rights under the MHRA by asking for a reasonable accommodation of medical leave. 5 in favor | 0 opposed.

E11-0628: Wanita Frost (Auburn) v. Wal-Mart Stores, Inc./Wal-Mart Transportation (Lewiston). Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney Stephen Melnick restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Thompson moved to find reasonable grounds to believe that Complainant Wanita Frost was subjected to unlawful sex discrimination or retaliation in employment by Respondent Wal-Mart Stores, Inc./Wal-Mart Transportation. Motion was not seconded; motion failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Wanita Frost was subjected to unlawful sex discrimination or retaliation in employment by Respondent Wal-Mart Stores, Inc./Wal-Mart Transportation. 4 in favor | 1 opposed (Thompson opposed).

E11-0693: Denise Barr (Gorham) v. Quantum Global Technologies d/b/a QuantumClean (Scarborough). Attorney William Vickerson restated the position of the Complainant. Attorney Randal White restated the

position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Thompson moved to find reasonable grounds to believe that Complainant Denise Barr was subjected to unlawful sexual harassment/hostile work environment by Respondent Quantum Global Technologies d/b/a QuantumClean. Motion was not seconded; motion failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Denise Barr was subjected to unlawful sexual harassment/hostile work environment by Respondent Quantum Global Technologies d/b/a QuantumClean. 4 in favor | 1 opposed (Thompson opposed). Commissioner Thompson moved to find reasonable grounds to believe that Complainant Denise Barr was constructively discharged from Quantum Global Technologies d/b/a QuantumClean. The motion was not seconded; motion failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Denise Barr was constructively discharged from Quantum Global Technologies d/b/a QuantumClean. 4 in favor | 1 opposed (Thompson opposed).

At approximately 2:00 PM Chair Vestal called for a 10 minute recess.

E11-0716: Donna Duval (Leeds) v. North Country Associates, Inc. (Lewiston). Attorney Julia Pitney restated the position of the Complainant. Attorney Richard Moon restated the position of the Respondent. Chief Investigator Barbara Lelli (for Michele Dion) restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent North Country Associates retaliated against Complainant Donna Duval by terminating her employment for engaging in activity protected by the Whistleblowers' Protection Act. 5 in favor | 0 opposed.

PA12-0245: Burleigh Witham (Warren) v. State of Maine Department of Corrections Bolduc Correctional Facility (Augusta). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Complainant Burleigh Witham was subjected to unlawful retaliation by Respondent State of Maine/Department of Corrections/Bolduc Correctional Facility because of filing a prior MHRC complaint. 5 in favor | 0 opposed.

E12-0362: Carmen Brigalli (Millinocket) v. Millinocket Regional Hospital (Millinocket). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Millinocket Regional Hospital terminated Complainant Carmen Brigalli's employment because of his disability in violation of the Maine Human Rights Act. 5 in favor | 0 opposed.

E12-0507: Shahrazad Nur (Portland) v. Sam's Club/Wal-Mart Stores, Inc. (South Portland). Attorney Stephen Melnick restated the position of the Respondent. Attorney Carol Garvin restated the position of the Complainant. Investigator Victoria Ternig restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent Sam's Club/Wal-Mart Stores, Inc. subjected Complainant Shahrazad Nur to unlawful discrimination based on sex in violation of the Maine Human Rights Act. 5 in favor | 0 opposed. Commissioner Clark moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Sam's Club/Wal-Mart Stores, Inc. subjected Complainant to race/color or national origin harassment or that Respondent is liable for constructive discharge. 5 in favor | 0 opposed.

E12-0623: John Tracy (South Portland) v. Casco Bay Island Transit District (Portland). Attorney Melissa Hewey restated the position of the Respondent. Captain John T. Tracy restated the position of the Complainant. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent Casco Bay Island Transit District retaliated against Complainant John Tracy in employment because of protected whistleblower activity in violation of the Whistleblowers' Protection Act and the Maine Human Rights Act. 4 in favor | 0 Opposed | 1 abstained/recused (Thompson).

PA13-0187: John Lussier (Lewiston) v. Allen Wayside Furniture Superstore of Maine, Inc. d/b/a The Furniture Superstore (Lisbon). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Allen Wayside Furniture Superstore of Maine, Inc. d/b/a The Furniture Superstore engaged in disability discrimination against Complainant John L. Lussier. 5 in favor | 0 opposed.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Clark, to move into executive session at 3:38 p.m. to discuss litigation with Commission Counsel pursuant 1 M.R.S. § 405(6)(E). 5 in favor | 0 opposed.

At approximately 3:55 p.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 Clark, for the Commission not to file a complaint in the following “reasonable grounds” cases:

- E11-0487, E11-0487, Brown v. Bank of America..
- E11-0430 Elizabeth Pavone v. Standard Distributors, Inc.

5 in favor | 0 opposed.

With respect to the “reasonable grounds” case E11-0437, Maltais v. Jackson Lab, Commissioner Chandler moved, seconded by Commissioner Thompson, to give Executive Director Amy Sneirson authority to enter into a conciliation agreement with Respondent to address remedies in the public interest or, if conciliation of the Commission’s public interest concerns is not successful, to file a complaint in court in the public interest. 3 in favor | 2 opposed. (Clark and Whitworth opposed).

With respect to the “reasonable grounds” case E10-0497, Malyun Isman (Raleigh, NC) v. Granite Bay Care, Inc., now pending in U.S. District Court, Commissioner Clark moved, seconded by Commissioner Chandler, to give Executive Director Amy Sneirson authority to enter into an agreement to address remedies in the public interest. 5 in favor 0 opposed.

ADJOURN:

There being no further business to come before the Commission Chair Vestal adjourned the meeting at approximately 4:00 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

E11-0495:	Wesley Danforth (Winthrop) v. Kennebec Valley Dental Center (Augusta)	RG
E11-0582:	Marius Ramirez (Ellsworth) v. State of Maine, Department of Health & Human Services, Dorothea Dix Psychiatric Center (Bangor)	NRG
E11-0583:	Wanda Seekins (Auburn) v. Walmart (Skowhegan)	NRG
E11-0604:	Claire Ross (Chebeague Island) v. Town of Chebeague Island (Chebeague Island)	NRG
E11-0626:	Eugene Fortin (New Gloucester) v. The Trustees of St. Joseph’s College of Maine (Standish)	NRG
E11-0651:	Agnes Farnsworth (Leeds) v. Kennebec Valley Community Action Program	RG
E11-0680:	Karl James (Whitefield) v. Shelter Man, Inc. (Windham)	NRG
E11-0060:	Sharon McPherson (Farmingdale) v. Community Pharmacy (Randolph)	NRG
E12-0312:	Edith McQuarrie (Presque Isle) v. Northern Maine General (Eagle Lake)	NRG
PA12-0449:	Frank Woodard (Lincoln) v. Penquis (Bangor)	NRG
E12-0499:	Lynsie Bachelder (Kenduskeag) v. Athenahealth, Inc. (Belfast)	NRG
E12-0560:	Diana Copp (Cumberland) v. Maine School Administrative District 51 (Cumberland)	NRG
PA12-0575:	Amy Greenwald (Waterville) v. Greyhound Lines, Inc. (Dallas, Texas)	RG
E13-0052:	Arthur McCurdy (Machias) v. State of Maine Department of Corrections (Augusta)	NRG
E13-0060:	Christine Small (Scarborough) v. Counseling Services, Inc. (South Portland)	NRG
E13-0095:	Corey Turner (Westbrook) v. Burlington Coat Factory of Maine, LLC (South Portland)	NRG
H13-0169:	Joanne O’ Clair (Sanford) v. N.E. Developers, Inc. & Eugene Gaudette (Sanford)	NRG