



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

August 11, 2014

Commissioner Chandler called the August 11th Commission meeting to order at 8:30 a.m. Present were Commissioners Sallie Chandler, Deborah Whitworth, A. Mavourneen Thompson and Arnold Clark. Commissioner Chandler served as Chair for the meeting.

AGENDA

Executive Director Amy Sneirson requested that E13-0174: Catherine Colombo (Rockport) v. Downeast Hospitality Partners I, LLC d/b/a Glenmoor by the Sea (Lincolnville) be removed from the Consent Agenda as the case was resolved by the parties.

Commissioner Chandler called for adoption of the agenda as amended. Commissioner Whitworth moved, seconded by Commissioner Thompson, to adopt the agenda as amended. 4 in favor | 0 opposed.

CONSENT AGENDA (see detailed listing on page 4)

Commissioner Thompson moved, seconded by Commissioner Clark, 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 Clark, to adopt the July 14, 2014 Commission Meeting Minutes. 4 in favor | 0 opposed.

QUARTERLY PROGRAM REVIEW

Inventory Status Report & Resolutions: There were 672 open cases at the end of June. The Commission closed 190 cases during the preceding quarter including 46 settlements resulting in benefits in excess of \$900,000 to Complainants.

- Training/Education: Commissioners reviewed the quarterly report indicating that staff presented at 6 training sessions and attended 4 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 the new MHRC Field Investigator, Alice Neal, began at the Commission on August 4, 2014.

COMPLIANCE

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

Commissioner Whitworth moved, seconded by Commissioner Thompson, to approve the conciliation agreement in E12-0600 Paradis v. ANSHI Hospitality LLC d/b/a Days Inn. 4 in favor | 0 opposed.

INVESTIGATION

New Charges: Commission staff opened 66 new cases in July.

Administrative Dismissals: The Executive Director administratively dismissed 22 cases in July.

Pre-determination Settlements: Since June 30th, 9 cases resulted in settlements with total monetary relief in excess of \$100,500 for complainants.

NEW BUSINESS

Executive Director Amy Sneirson provided the Commissioners with copies of a draft 2014-2015 Agency Rulemaking Agenda, explaining that the agency is required to file such a document each year to set out any rulemaking the Commission may propose. Executive Director Sneirson and Commission Counsel Barbara Archer Hirsch discussed each of the items listed on the agenda with the Commissioners, to explain why each item might be the subject of rulemaking in the upcoming year.

A remaining item of new business, a vote on proposed rule amendments to Chapter 2 (Procedural Rule) and Chapter 3 (Employment Regulations) was moved to after executive Session.

At 8:40 a.m. Commissioner Chandler called for a five-minute recess.

CASES VOTED ON 8:46 A.M.:

E12-0629: Chelsea Barker (Waterville) v. Friendly's Ice Cream, LLC (Wilbraham, MA). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe to believe that Respondent Friendly's Ice Cream LLC discriminated against Complainant Chelsea Barker because of her sex or sexual orientation (gender expression/gender related identity) or that she was constructively discharged. 4 in favor | 0 opposed.

E13-0045: Amanda Barker (Waterville) v. Friendly's Ice Cream, LLC (Wilbraham, MA). Complainant was not present. Commissioner Thompson moved, seconded by Commissioner Clark, to find no reasonable grounds to believe to believe that Respondent Friendly's Ice Cream LLC retaliated against Complainant Amanda Barker in violation of the Maine Human Rights Act or the Whistleblowers' Protection Act. 4 in favor | 0 opposed.

E13-0018: Frederick Palow (Ellsworth) v. John E. Royal, DDS (Ellsworth). Attorney Edward Gould restated the position of the Complainant. Attorney Rufus Brown restated the position of the Respondent. Investigator Angela Tizón restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe to believe that John E. Royal, DDS discriminated against Frederick Palow on the basis of sexual orientation by subjecting him to a hostile work environment and by terminating his employment. 4 in favor | 0 opposed.

H14-0063: James Nichols (Gray) v. Richmond Eldercare Coalition, Inc. (Richmond);

H14-0063-A: James Nichols (Gray) v. Denise Gibbs (Richmond); and

H14-0063-B: James Nichols (Gray) v. Jill Wagurak (Richmond).

Attorney Alice Knapp restated the position of the Respondent. Attorney Mark Joyce restated the position of the Complainant. Investigator Angela Tizón restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that Richmond Eldercare Coalition, Inc. discriminated against James Nichols on the basis of disability by refusing to accommodate his disability, and conciliation on this claim should be attempted in accordance with 5 M.R.S. § 4612(3). 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find **reasonable grounds** to believe to believe that Richmond Eldercare Coalition, Inc. discriminated against James Nichols on the basis of disability by discharging him from the housing facility. 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe to believe that Denise Gibbs and Jill Wagurak discriminated against James Nichols on the basis of disability, and the complaints against these individual Respondents should be dismissed in accordance. 4 in favor | 0 opposed.

H14-0124: Brandon & Ellen Marshall & o/b/o Minor (Sanford) v. Freeport Housing Trust, Inc. (Freeport), & Preservation Management, Inc. (South Portland). Complainant was not present. Commissioner Clark moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondents Freeport Housing Trust, Inc. and Preservation Management, Inc. subjected Complainants to a racially hostile housing environment, or discriminated against Complainants because of their race or their minor son's disability in the terms and conditions of their housing or in their eviction, or denied their minor son the reasonable accommodation of a service animal. 4 in favor | 0 opposed.

EXECUTIVE SESSION:

At 9:48 a.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to move into executive session to discuss pending or contemplated litigation with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 4 in favor | 0 opposed.

At approximately 10:04 a.m. Commissioner Thompson moved, seconded by Commissioner Clark, to come out of executive session. 4 in favor | 0 opposed.

LITIGATION:

Commissioner Thompson moved, seconded by Commissioner Chandler, to approve the conciliation agreement in E11-0437: Maltais v. The Jackson Laboratory. 2 in favor | 1 opposed (Whitworth opposed) | 1 abstained (Clark abstained).

Commissioner Thompson moved, seconded by Commissioner Whitworth, to approve the conciliation agreement in H12-0148 and -0149, Smith and Keirstead v. White, White and Josslyn. 4 in favor | 0 opposed.

Commissioner Clark moved, seconded by Commissioner Whitworth, not to file a complaint in the following “reasonable grounds” cases:

- E12-0188: Beaman v. Abercrombie & Fitch (sex/pregnancy)
- H12-0265: Kretch/Anderson v. Thompson (sexual orientation and receipt of public funds)
- E12-0361: Bailey v. WCEMSA d/b/a Downeast EMS (sex/gender)
- E13-0027: Williams v. All Children’s Day Care and Preschool (WPA)

4 in favor | 0 opposed.

Commissioner Whitworth moved, seconded by Commissioner Chandler, that the Commission should file a complaint in the following “reasonable grounds” case:

- PA12-0004: Ellis v. Spectrum Generations. 3 in favor | 1 abstained (Clark abstained).

NEW BUSINESS, CONTINUED

Proposed Rule Amendments to Chapter 2 (Procedural Rule) & Chapter 3 (Employment Regulations)

Executive Director Amy Sneirson reminded the Commissioners that they previously had approved these rules and we had sent them for approval to the Department of the Attorney General; the Attorney General had a certain amount of time to complete the review but let the time lapse, requiring us to re-do the entire process. Commission Counsel Barbara Archer Hirsch stated that the proposed amendments went out for public comment again, and that no comments were received. The Commissioners discussed various items in the Chapter 3 rule amendments. Commissioner Thompson moved, seconded by Commissioner Chandler, to adopt the Basis Statement and proposed amendments to Chapter 2 (Procedural Rules) and to Chapter 3 (Employment Regulations). 2 in favor | 2 abstained (Whitworth and Clark abstained)

ADJOURNMENT:

There being no further business to come before the Commission, Commissioner Whitworth moved, seconded by Commissioner Thompson, to adjourn the meeting the meeting at 10:52 AM. 4 in favor | 0 opposed.

The consent agenda lists 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 any oral argument.

CONSENT AGENDA

E12-0390:	Sean Sweeney (Bangor) v. United Parcel Service of America, Inc. (Bangor)	NRG
E13-0207:	Catherine Demmons (Bangor) v. Woodrow W. Cross Agency d/b/a Cross Insurance Agency	NRG
E/PA13-0305:	Michael Fetter (Canajoharie, NY) v. University of Maine System (Orono)	NRG
E13-0308:	Christiane Gilbert (Pittsfield) v. Maine Veterans’ Homes (Bangor)	NRG
E13-0351:	Keith Whitmore (Lexington, MA) v. Lewiston Daily Sun, Inc. (Lewiston)	NRG
E13-0355:	Lawrence Newton (Sumner) v. Page’s Repair (Leeds)	NRG
E13-0394:	Ellen P. Gammon (Auburn) v. Area IV Mental Health Coalition d/b/a Common Ties Mental Health Services (Lewiston)	NRG
E13-0409:	Joseph Farris (Norway) v. ABC Rubbish, Inc. (Norway)	NRG
H14-0061:	Todd Peterson, Alexis Nieuwenhuys & Justin Irish (Portland) v. Apex Management, LLC & Wescott & Payson II, LLC (Portland)	NRG
H14-0061-A:	Todd Peterson, Alexis Nieuwenhuys & Justin Irish (Portland) v. Mary Porkka (Portland)	NRG