



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

Senator Inn - Boardroom

19 Union Street ~ Augusta, Maine

March 19, 2018

Commission Chair Arnold Clark called the meeting to order at 8:30 AM. Present were Commissioners Arnold Clark, Deborah Whitworth, John Norman, Ted Helberg, and Fred Oettinger.

AGENDA

Commissioner Helberg moved, seconded by Commissioner Whitworth, to adopt the Agenda and to accept the Investigator's recommended decision in each of the cases listed on the Consent Agenda (see listing on page 4). 5 in favor | 0 opposed.

MINUTES

Commissioner Whitworth moved, seconded by Commissioner Helberg, to adopt the February 12, 2018 Commission meeting minutes. 5 in favor | 0 opposed.

ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on Commission activities from February:

- Personnel: No new activity.
- Compliance: Since the last meeting, there was one unsuccessful conciliation and one successful conciliations. Three reasonable-grounds cases remain in active conciliation.
- The successful conciliation in Case E16-0117, Vanpoelvoorde v. Neighborhood Redemption, resulted in a conciliation agreement with the Commission, which the Commission reviewed. Commissioner Norman moved, seconded by Commissioner Oettinger, to approve the conciliation agreement in E16-0117. 5 in favor | 0 opposed.
- New Charges: 38 new charges filed.
- Administrative Dismissals: 32 administrative dismissals.
- There were 10 predetermination settlements with benefits of \$390,000 to complainants.

E.D. Sneirson presented Complainant's request for reconsideration in case PA16-0039, Capron v Southern Maine Area Agency on Aging and Ann O'Sullivan. Commissioner Whitworth moved, seconded by Commissioner Oettinger, to deny the request for consideration. 5 in favor | 0 opposed.

E.D. Sneirson reported that the Maine Legislature still in session, with a statutory deadline of April 18 to close the session. The Commission provided testimony on two proposals would affect the MHRA or Commission. One of them, LD 1766, would have broadened an existing statute allowing drug testing of employees when drug/alcohol abuse is suspected to also allow drug testing when "impairment" is suspected in an employee. The Commission provide testimony "neither for nor against" this bill at the Joint Standing Committee on Labor, Commerce, Research and Economic Development; the bill died in Committee last week. The Commission also provided testimony on LD 1866 last week; this was a repeat of a proposal

submitted in prior years that would require all state agencies and employees to comply with federal immigrations and customs enforcement officers. The Commission testified in opposition to this proposal for a number of reasons, just as it did the last time this was proposed. There will be a work session on this bill in the Joint Standing Committee on the Judiciary tomorrow, which the Commission will attend in case there are questions related to the MHRA or our testimony.

Additionally, recently the Legislature reviewed the policies and practices of all quasi-independent agencies related to 2011 statutory amendments detailing requirements for quasi-independent agencies' expenses, procurement and contributions. The Commission has followed stringent policies regarding expensers, contributions and procurements at all times, and has reported to the Legislature each year as required with no issues of concern. E.D. Sneirson presented the Commissioners with specific written policies governing the Commission's expenses, procurement and contributions for adoption. Commissioner Helberg requested to table this discussion to after Executive Session.

E.D. Sneirson reported on the Commission's continuing efforts to help create a statewide coalition to combat hate and bias incidents, noting that the coalition held its first meeting in February and would be meeting again in early April.

Also, April is Fair Housing month. The Commission will be holding Fair Housing training workshops in Kittery, Lewiston, and Houlton.

Finally, E.D. Sneirson noted that the U.S. Department of Housing and Urban Development would be onsite at the Commission later this week for its review of the Commission's work under the worksharing agreement between our agencies.

The Commission took a two-minute break at 8:43 AM.

At 8:45 AM Commission Chair Arnold Clark began the case hearing agenda. Legally-certified American Sign Language interpreters were present.

CASES VOTED ON

PA16-0096: Sue A. Draper (East Orland) v. Auburn (City of)/Police Dept. (Auburn). Attorney Mark Franco and Auburn Police Chief Phillip Crowell, Jr. restated the position of the Respondent. Complainant restated her position. Chief Investigator Alice Neal restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that the City of Auburn Police Department discriminated against Sue A. Draper on the basis of disability (failure to provide auxiliary aid/reasonable accommodation). 2 in favor | 3 opposed (Clark, Norman, Oettinger opposed); the motion did not pass. Commissioner Norman moved, seconded by Commissioner Oettinger, to find **reasonable grounds** to believe that the City of Auburn Police Department discriminated against Sue A. Draper on the basis of disability (failure to provide auxiliary aid/reasonable accommodation). 3 in favor | 2 opposed (Whitworth, Helberg opposed).

At 10:05 AM Chair Clark called for a 5 minute recess.

E16-0024: Trista E. Collins (Windham) v. SOM/Dept. of Health & Human Services (Augusta). Trista Collins restated her position as the Complainant. Assistant Attorney General Valerie Wright restated the position of the Respondent. Chief Investigator Alice Neal restated the facts of the case. Commissioner Whitworth moved,

Seconded by Commissioner Helberg, to find no reasonable grounds to believe SOM/Dept. of Health & Human Services retaliated against Trista E. Collins in violation of the WPA because she engaged in protected activity. 5 in favor | 0 opposed.

E16-0110: Larry W. Mayes (Lewiston) v. Central Maine Medical Center (Lewiston), Jesse Zack (Lewiston), Bruce O'Donnell (Lewiston), Christine Reindeau (Lewiston), Fred Frohardt (Lewiston), Tina Legere (Lewiston), & Jay Beck (Lewiston). Larry Mayes restated his position as the Complainant. Attorney Jordan Payne Hay restated the position of the Respondent. Investigator Stuart Evans restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Central Maine Medical Center, Jesse Zack, Bruce O'Donnell, Christine Reindeau, Fred Frohardt, Tina Legere, and Jay Beck unlawfully retaliated against Larry W. Mayes in violation of the MHRA or WPA and no reasonable grounds to believe that Central Maine Medical Center, Jesse Zack, Bruce O'Donnell, Christine Reindeau, Fred Frohardt, Tina Legere, and Jay Beck discriminated against Larry W. Mayes on the basis of age and/or disability. 5 in favor | 0 opposed.

PA16-0124: David K. LaFlamme (North Anson) v. Waldo County Superior Court (Belfast). Complainant was not present. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Waldo County Superior Court denied Complainant David K. LaFlamme a reasonable accommodation for his disability and no reasonable grounds to believe that Complainant David K. LaFlamme was subjected to unlawful discrimination on the basis of disability (by denial of access or via accessibility standards) by Respondent Waldo County Superior Court. 5 in favor | 0 opposed.

PA16-0133: George J. Stanley (Greene) v. BJ's (Westborough, MA). Complainant was not present. Commissioner Oettinger moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that BJ's discriminated against George J. Stanley on the basis of disability by subjecting him to less favorable terms and conditions in accessing a public accommodation, and no reasonable grounds to believe that BJ's discriminated against George J. Stanley on the basis of age or marital status by denying him an extension of credit, and no reasonable grounds to believe that BJ's retaliated against George J. Stanley in violation of the MHRA. 5 in favor | 0 opposed.

E16-0322: Angela Cook (Portland) v. Patten Tool a/k/a PTE Precision Machining (Kittery). Complainant was not present. Commissioner Oettinger moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Respondent Patten Tool a/k/a PTE Precision Machining discriminated against Complainant Angela Cook based on sex in the terms and conditions of her employment and no reasonable grounds to believe that Respondent Patten Tool a/k/a PTE Precision Machining retaliated against Complainant Angela Cook for reporting unsafe or unlawful workplace activity. 5 in favor | 0 opposed.

PA16-0454: Cheryl L. Andrews (East Hartford, CT) v. Sears (South Portland). Complainant was not present. Commissioner Oettinger moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Sears discriminated against Cheryl L. Andrews due to her color. 5 in favor | 0 opposed.

EXECUTIVE SESSION

At 11:25 PM, Commissioner Norman moved, seconded by Commissioner Whitworth, to go into executive session to discuss pending or contemplated litigation and the Commission's legal rights and duties with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 5 in favor | 0 opposed.

At approximately 11:53 PM, Commissioner Whitworth moved, seconded by Commissioner Helberg, to come out of executive session. 5 in favor | 0 opposed.

LITIGATION

Commissioner Norman moved, seconded by Commissioner Helberg, to approve a litigation agreement in the post-conciliation case of Syret v. Supportive Housing Assoc. LP d/b/a Community Concepts, Mike Burke, Jeanne Currie and Bob Vallee (H14-0572, -0573, -0574, -0575/HUD No. 01-15-0103-8).

NEW BUSINESS, cont.

Commissioner Oettinger moved, seconded by Commissioner Norman, to adopt the proposed written policies governing the Commission's procurements, contributions and travel/meal expenses as required under Title 5 §12022 for for quasi-independent agencies. 5 in favor | 0 opposed.

At approximately 11:54 AM, Commissioner Clark adjourned the meeting.

CONSENT AGENDA

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.

E16-0109	Janice M. Haskell (South Portland) v. South Portland Nursing Home (South Portland)	NRG
E16-0132	Michael S. Tibbetts (West Paris) v. KBS, Inc. (South Paris) & Wyatt Andrews (South Paris)	NRG
PA16-0151	Gaynor P. Fitch (Norway) v. Cumberland Farms (Westborough, MA)	NRG
E16-0190	Ryan P. Hemingway (Westbrook) v. B.I.C. Holdings (South Portland)	NRG
E16-0208	Marie Grandmaison (Fairfield) v. Laborers' International Union of North America Local 327 (Augusta)	NRG
E16-0414	Leanne Tukey (Brunswick) v. Giri Hotel Management, d/b/a Best Western Plus Brunswick (Brunswick)	NRG
E17-0052	Arlene R Henry-Castonguay (Peru) v. RSU #73 (Livermore Falls)	NRG
H17-0460-A	Lisa Daniello (Portland) v. Michael Geftic (Portland) & Laura Geftic (Portland)	NRG

TABLED

E16-0369	William A. Hale (Norridgewock) v. Vestas American Wind Tech (Eustis)
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