



Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

April 8, 2013

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

Commissioner Vestal called for adoption of the agenda.

- Executive Director Amy Sneirson requested that case E12-0312, Tricia Bailey (Auburn) v. Adamar Associates d/b/a Ramada Conference Center (Lewiston), be removed from the agenda as the case has been resolved by the parties.
- Executive Director Amy Sneirson requested that case E12-0311, Orrate Barnes (Auburn) v. Adamar Associates d/b/a Ramada Conference Center (Lewiston), be removed from the agenda as the case has been resolved by the parties.

Commissioner Chandler moved, seconded by Commissioner Clark, to adopt the agenda as amended. 5 in favor | 0 opposed.

CONSENT AGENDA (see detailed listing on page 6-7)

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

MINUTES:

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the February 25, 2013 Commission Meeting Minutes. 5 in favor | 0 opposed.

ADMINISTRATION:

Personnel Report: Executive Director Amy Sneirson reported that there were no significant personnel changes at the Commission since the February Commission meeting.

COMPLIANCE:

- Commissioners reviewed the compliance report and it was placed on file.
- Commissioner Chandler moved, seconded by Commissioner Whitworth, to approve the Commission and Respondent's Conciliation Agreement and to approve withdrawal of the complaint in E11-0080, Northridge v. AMVETS J. Loring Post 25. 5 in favor | 0 opposed.

INVESTIGATION:

New Charges: Commission staff opened 53 new cases in February and 55 new cases in March.

Administrative Dismissals: Commission staff dismissed 15 cases in February and 44 in March.

Pre-determination Settlements: Since February 25, 2013, staff was responsible for obtaining settlements in 11 cases resulting in total monetary relief in excess of \$173,000 for complainants.

NEW BUSINESS:

Executive Director Amy Sneirson announced specifics of events the Commission is hosting in the spring, including a joint event with the EEOC in May and Fair Housing Month seminars in April and May in various locations in Maine.

Executive Director Amy Sneirson discussed with Commissioners a request from employment lawyers that the Commission post biographical information about Commissioners on the website. With no objections, Commissioners will review the Executive Director's draft biographies prior to posting.

Legal Counsel John P. Gause reviewed the status of the Proposed Rule Amendments to Chapter 2: Procedural Rule; and Chapter 8 Housing regulations of the Maine Human Rights Commission. Commissioner Chandler moved, seconded by Commissioner Clark, to adopt Proposed Rule Amendments to Chapter 2: Procedural Rule; and Chapter 8 Housing regulations of the Maine Human Rights Commission and basis statement. 5 in favor | 0 opposed.

Executive Director Amy Sneirson and Legal Counsel John P. Gause began discussion of three legislative bills that might affect Commission matters. The first LD discussed was 1192, which addresses insurance policies for dangerous dogs; this can lead to denial of housing accommodations when landlords cannot get insurance for certain breeds of service animals that are considered dangerous. The Commission will testify in support of this bill only as it relates to service animals. With the time to hear cases approaching, the Commission tabled discussion of the other two LDs until the end of the hearing agenda.

LITIGATION: Moved to after Executive Session.

At 8:43 AM Commissioner Vestal called for the morning cases.

CASES VOTED ON:

E11-0200: Janet Tenney (Coos Bay, OR) v. North Country Management d/b/a Burger King (Orono): Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that North Country Management Group, Inc. d/b/a Burger King retaliated against Janet Tenney in Violation of the MHRA and the WPA by terminating her employment. 5 in favor | 0 opposed.

E11-0295, E11-0296: Shirley Barlow (Thomaston) v. State of Maine, Department of Corrections (Augusta) and Corizon, Inc f/k/a Correctional Medical Services (St. Louis, MO): Shirley Barlow restated the position of the Complainant. Assistant Attorney General Kelly Turner restated the position of the Respondent State of Maine, Department of Corrections. Shelly Goetz restated the position of the Respondent Corizon, Inc. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that the State of Maine Department of Corrections and Corizon, Inc. f/k/a Correctional Medical Services retaliated against Shirley Barlow in violation of the Maine Whistleblowers' Protection Act by terminating her employment after she complained of unsafe and unlawful activity. 5 in favor | 0 opposed.

E11-0305: Herbert Gleason (Weston) v. Smith & Wesson Corporation (Springfield, MA)

E11-0306: Herbert Gleason (Weston) v. Dan Soucy (Springfield, MA)

E11-0307: Herbert Gleason (Weston) v. Laurie Crowley (Springfield, MA)

E11-0308: Herbert Gleason (Weston) v. Scott Allen (Springfield, MA)

E11-0309: Herbert Gleason (Weston) v. Terry Wade (Springfield, MA)

Attorney Kristin Aiello restated the position of the Complainant. Attorney Greg McGuire restated the position of the Respondent. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Smith & Wesson Corporation, Dan Soucy, Laurie Crowley, Scott Allen and Terry Wade discriminated against Herbert Gleason on the basis of actual or perceived disability by subjecting him to a hostile work environment and no reasonable grounds to believe that Smith & Wesson Corporation, Dan Soucy, Laurie Crowley, Scott Allen and Terry Wade retaliated against Herbert Gleason in violation of the Maine Whistleblowers' Protection Act by terminating his employment after he complained of illegal activity. 5 in favor | 0 opposed.

E11-0317: Renee Felini (Caribou) v. University of Maine System (Presque Isle). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that the University of Maine system discriminated against Renee Felini on the basis of sex by denying her a promotion and subjecting her to a hostile work environment and no reasonable grounds to believe that the University of Maine System retaliated against Renee Felini in violation of the Maine Whistleblowers' Protection Act by denying her a promotion after she complained of unlawful activity. 5 in favor | 0 opposed.

E11-0323: Ann Clarke (Augusta) v. Realty Resources Hospitality Augusta, LLC d/b/a Denny's Restaurant (Augusta). Complainant was not present. Commissioner Thompson moved, seconded by Commissioner Clark, to find **reasonable grounds** to believe that Realty Resources Hospitality Augusta, LLC d/b/a Denny's Restaurant subjected Ann Clarke to a hostile work environment based on sex. 5 in favor | 0 opposed. Commissioner Clark moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Realty Resources Hospitality Augusta, LLC d/b/a Denny's Restaurant retaliated against Ann Clarke in violation of the Maine Human Rights Act and the Whistleblowers' Protection Act by terminating her employment. 5 in favor | 0 opposed.

E11-0328: Benjamin Whitish (Clinton) v. Kodiak Steel Company (Clinton). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Kodiak Steel Company retaliated against Benjamin Whitish in violation of the Maine Human Rights Act and the Whistleblowers' Protection Act by terminating his employment. 5 in favor | 0 opposed.

PA11-0330: Moyan Lilly (Augusta) v. InterCoast Career Institute (South Portland). Moyan Lilly restated the position of the Complainant. Respondent was not present. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that the Complainant Moyan Lilly was subjected to unlawful disability

discrimination in public accommodations due to her race, color or national origin by Respondent InterCoast Career Institute. 5 in favor | 0 opposed.

At 10:17 Chair Vestal called for a 10 minute break.

E11-0404: Laurie Irons (Limerick) v. NOSH LLC d/b/a Nosh Kitchen Bar (Portland). Attorney Todd Ketcham restated the position of the Respondent. Complainant was not present. Investigator Michele Dion restated the facts of the Case. Commissioner Thompson moved to find no reasonable grounds to believe that Respondent NOSH, LLC d/b/a Nosh Kitchen Bar subjected Complainant Laurie Irons to different terms and conditions because of sex. Motion was not seconded, motion failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent NOSH, LLC d/b/a Nosh Kitchen Bar subjected Complainant Laurie Irons to different terms and conditions because of sex. 4 in favor | 1 opposed. (Thompson opposed). Commissioner Clark moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that NOSH, LLC d/b/a Nosh Kitchen Bar retaliated against Complainant Laurie Irons in violation of the Whistleblowers' Protection Act by terminating her employment. 5 in favor | 0 opposed.

E11-0419: Roderick O'Connor (Biddeford) v. National Railroad Passenger Corporation d/b/a Amtrak Downeaster (Portland). Attorney Jeffrey Neil Young restated the position of the Complainant. Respondent was not present. Investigator Michele Dion restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Respondent National Railroad Passenger Corporation d/b/a Amtrak Downeaster discriminated against Complainant Roderick O'Connor on the basis of age, sex and disability. 5 in favor | 0 opposed.

E11-0425: Kevin Dionne (Cross Lake Township) v. Family Dollar, Inc. (Charlotte, N.C.). Attorney Matthew Keegan restated the position of the Complainant. Attorney Sarah Greene restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Clark, to find reasonable grounds to believe that Respondent Family Dollar, Inc. terminated Complainant Kevin Dionne's employment because of sex or whistleblower retaliation. 1 in favor | 4 opposed. (Vestal, Chandler, Clark and Whitworth opposed). Motion failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Family Dollar, Inc. terminated Complainant Kevin Dionne's employment because of sex or whistleblower retaliation. 4 in favor | 1 opposed (Thompson opposed).

E11-0437: Lois Maltais (Bar Harbor) v. The Jackson Laboratory (Bar Harbor). Attorney Matthew Raynes restated the position of the Complainant. Attorney Jeffrey Neil Young restated the position of the Respondent. Commissioner Clark moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Jackson Laboratory failed to hire Complainant Lois Maltais because of her age. 5 in favor | 0 opposed. Commissioner Chandler moved, seconded by Commissioner Vestal, to find **reasonable grounds** to believe that the Respondent Jackson Laboratory has or had a discriminatory policy or practice regarding rehiring retirees, including Complainant Lois Maltais. 3 in favor | 2 opposed (Clark and Whitworth opposed).

At 12:20 Chair Vestal called for a 15 minute recess.

E12-0219: Joseph Gahagan (Wells) v. Henrietta D. Goodall Hospital (Sanford). Attorney Allison Gray restated the position of the Complainant. Attorney Michelle Bush restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Whitworth moved to find no reasonable grounds to believe that Respondent Henrietta D. Goodall Hospital conducted an unlawful medical examination and withdrew a job offer from Complainant Joseph Gahagan on the basis of physical disability. The motion was not seconded. Motion failed. Commissioner Thompson moved, seconded by Commissioner Vestal, to find **reasonable grounds** to believe that Respondent Henrietta D. Goodall

Hospital conducted an unlawful medical examination and withdrew a job offer from Complainant Joseph Gaghan on the basis of physical disability. 3 in favor | 1 opposed | 1 abstained (Whitworth opposed, Chandler abstained).

E12-0227: Corey Sloat (Freeport) v. Town of Freeport (Freeport). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Town of Freeport unlawfully terminated, or withdrew a job offer from, Complainant Corey Sloat. 5 in favor | 0 opposed.

H12-0558, H12:0559: Cynthia Wills (Scarborough) v. Seacoast RV Resort, LLC/ Linda & Michael Mailhot (Saco) and Russell Jache (Bedford, N.H.). Cynthia Wills restated the position of the Complainant. Attorney Neil Weinstein restated the position of Respondents Seacoast RV Resort and the Mailhots. Respondent Russell Jache restated his position. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Respondent Russell Jache subjected Complainant Cynthia Willis to sexual harassment and retaliation in housing for rebuffing his sexual advances and no reasonable grounds to believe that Respondents Seacoast RV Resort, LLC, Linda Mailhot and Michael Mailhot are responsible for sexual harassment and retaliation in housing. 5 in favor | 0 opposed.

NEW BUSINESS: (CON'T)

Executive Director Amy Sneirson and Legal Counsel John P. Gause continued discussion legislative bills that might affect Commission matters. The second LD discussed was 777, which would provide a remedy under the MHRA for an employer's failure to provide accommodations for employees who are nursing mothers, as required by a Department of Labor Statute. The third LD discussed was 830, which would add to the MHRA definition of sex discrimination specific protection for pregnant women employees, and afford them the same right to reasonable accommodations as employees with disabilities. The Commission will testify in support of these bills.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Clark, to move into executive session at 2:09 p.m. to discuss litigation with Commission Counsel pursuant 1 M.R.S.A. §405(6)(E). 5 in favor | 0 opposed.

At approximately 2:09 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, 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 court complaint in the "reasonable grounds" case E11-0117, O'Keefe v. Three Sons Fishing, LLC (WPA). 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Whitworth, for the Commission to file a court complaint in the "reasonable grounds" case E12-0023, Mann V. Sunbury Medical Associates. 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 2:15 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

E11-0247:	Christopher McLaren (Raeford, N.C.) v. Eastern Maine Medical Center (Bangor)	NRG
E11-0302:	Darrel Ross (Old Town) v. American Concrete Company (Veazie)	NRG
E11-0354:	Jennifer Wade (Rio Rancho, N.M.) v. Sisters of Charity System, Inc. d/b/a St. Mary's Health System (Lewiston)	NRG
E11-0395:	Jacqueline Hoyt (Hodgdon) v. Louisiana-Pacific Corporation (Nashville, TN)	NRG
E11-0427:	Ronald McPherson (South China) v. Dollar Tree Stores, Inc. (Chesapeake, VA)	NRG
E11-0443:	Sandel Soto (Wilton) v. Alltrista Plastics d/b/a Jarden Plastic Solutions (Wichita, KS)	NRG
E11-0469:	Jessica Burnham (Litchfield) v. State of Maine, Department of Professional & Financial Regulation, Administrative Services (Augusta)	NRG
E11-0482:	Albert Farris (Brunswick) v. Town of Falmouth (Falmouth)	NRG
E11-0585:	John Crockett (Bath) v. Bowdoin College (Bowdoin)	NRG
E11-0736:	Rhiannon Desmond (Jay) v. Barclaycard U.S. (Wilmington, DE)	NRG
E11-0760:	Robert Cimbollek (Bangor) v. Eastern Maine Board of Approved Basketball Officials Board # 111 (East Millinocket)	NRG
E12-0051:	Donald McGrath (Lewiston) v. Adamar Associates Limited Partnership d/b/a Ramada Conference Center (Lewiston)	NRG
H12-0567:	Gary & Shannon Auritt (Falmouth) v. Twin Meadow Homeowners' Association & Christopher Hau (Falmouth)	NRG
H12-0567:	Gary & Shannon Auritt (Falmouth) v. Town of Falmouth (Falmouth)	