



# Maine Human Rights Commission

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EXECUTIVE DIRECTOR

**Barbara Archer Hirsch**  
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## COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

**February 24, 2014**

Chair Vestal called the February 24, 2014 Commission meeting to order at 8:30 a.m. Present were Chair Paul Vestal, Commissioners Sallie Chandler, and Deborah Whitworth.

### AGENDA

Executive Director Amy Sneirson requested that the following cases be tabled to the March 31, 2014 meeting agenda at the request of the parties.

- PA12-0004: June Ellis (Monmouth) v. Spectrum Generations (Augusta)
- E12-0256: Diamond Murphy (Presque Isle) v. Maine Veterans Home (Caribou)
- E12-0265: Kevin Miller (Lewiston) v. Project Staffing d/b/a Maine Staffing Group (Brunswick)

Commissioner Vestal called for adoption of the agenda as amended. Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the agenda as amended. 3 in favor | 0 opposed.

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

Commissioner Chandler moved, seconded by Commissioner Whitworth, to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 3 in favor | 0 opposed.

### MINUTES

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the January 27, 2014 Commission Meeting Minutes. 3 in favor | 0 opposed.

### ADMINISTRATION

Personnel Report: Executive Director Amy Sneirson reported that Chief Investigator Barbara Lelli will be leaving the Commission effective March 14, 2014, and thanked her for her long and distinguished service to the Commission.

### COMPLIANCE

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

Commissioner Chandler moved, seconded by Commissioner Whitworth, to approve the conciliation agreement in H13-0259: PTLA v. Princeton Properties Management. 3 in favor | 0 opposed.

## INVESTIGATION

New Charges: Commission staff opened 45 new cases in January.

Administrative Dismissals: The Executive Director administratively dismissed 25 cases in January.

Pre-determination Settlements: Since January 14, 2014, 12 cases resulted in pre-determination settlements with total monetary relief in excess of \$106,000 for complainants.

## NEW BUSINESS

At 8:37 a.m. Commissioner Chandler called for a seven minute recess.

At 8:40 a.m. Commissioner Thompson arrived at the meeting.

### CASES VOTED ON 8:45 a.m.:

E11-0719: Linda Faas (Addison) v. Country Pride Cleaning Service, Inc. (Sebec). Complainant was not present. Attorney Thad Zmistowski restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved to find no reasonable grounds to that Country Pride Cleaning Service, Inc. discriminated against Linda Faas on the basis of disability by terminating her employment. Motion was not seconded, motion failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Country Pride Cleaning Service, Inc. discriminated against Linda Faas on the basis of disability by terminating her employment. 3 in favor | 1 opposed (Thompson opposed).

E12-0129: Paul Carignan (Pownal) v. Spurwink Services (Portland). Neither Complainant nor Respondent was present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Spurwink Services terminated Complainant Paul Carignan based on a physical disability or in retaliation for requesting reasonable accommodations. 3 in favor | 1 opposed (Thompson opposed).

E12-0174: Angela Severy (South China) v. Corizon, Inc. (St. Louis, MO). Angela Severy restated the position of the Complainant. Attorney Shellie Goetz restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Corizon, Inc. discriminated against Complainant Angela Severy on the basis of disability or retaliated against her for engaging in protected activity under the MHRA or WPA by (a) reprimanding her, (b) not allowing time off to attend school, (c) terminating her employment, or (d) denying her reasonable accommodations. 4 in favor | 0 opposed.

E12-0267: Tiffany Vargas (Auburn) v. OSC Sports d/b/a Olympia Sports, Inc. (Westbrook). Attorney Rebecca Webber restated the position of the Complainant. Attorney Julia Pitney restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Tiffany Vargas was subjected to unlawful sexual orientation discrimination (terms and conditions of employment, termination) by Respondent OSC Sports d/b/a Olympia Sports Inc.; and no reasonable grounds to believe Complainant Tiffany Vargas was subjected to unlawful discrimination in employment (retaliation) by Respondents because she reported what she believed to be protected activity under the Whistleblowers' Protection Act and/or an assertion of rights protected under the Maine Human Rights Act. 4 in favor | 0 opposed.

E12-0314: David Cobb (Randolph) v. City of Belfast (Belfast). Attorney Mark Franco restated the position of the Respondent. Attorney Peter Bickerman restated the position of the Complainant. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find **reasonable grounds** to believe that the Complainant was subjected to disability discrimination (failure to accommodate) by Respondent. 4 in favor | 0 opposed.

E12-0370: Mark Vasiliauskas (Greene) v. Sam's Italian Foods d/b/a Sam's Italian Sandwich Shoppe (Lewiston). Mark Vasiliauskas restated the position of the Complainant. Attorney Rebecca Webber restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Mark Vasiliauskas was subjected to unlawful disability discrimination in employment by Respondent Sam's Italian Foods d/b/a Sam's Italian Sandwich Shoppe. 4 in favor | 0 opposed.

E12-0451: Ruth Moreau (Dixmont) v. Coffee Break Café, LLC (Winterport). Complainant was not present. Laurie Lee, owner, restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Coffee Break Cafe, LLC discriminated against Ruth Moreau on the basis of disability by refusing to hire her. 4 in favor | 0 opposed.

PA13-0275: Susan Patnode & Ernest Patnode (Beloit, WI) v. Breda LLC d/b/a Camden Harbour Inn (Camden). Attorney Stephen Hanscom restated the position of the Respondent. Complainant was not present. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Breda LLC d/b/a Camden Harbour Inn denied Complainants Susan B. and Ernest A. Patnode the full and equal enjoyment of a place of lodging on the basis of physical disability. 3 in favor | 1 opposed (Chandler opposed)

CASES VOTED ON 12:45 p.m.

E12-0613: David Crockett (Skowhegan) v. Pan Am Railways, Inc. (Billerica, Massachusetts). Respondent was not present. Attorney Jeffrey Young was present on behalf of Complainants but not asked to present. Commissioner Chandler moved, seconded by Chair Vestal, to find reasonable grounds to believe that Pan Am Railways, Inc. removed Complainant David Crockett from service and refused to return him to work due to disability (unlawful medical inquiries) in violation of the Maine Human Rights Act. 2 in favor | 2 opposed (Whitworth, Thompson opposed); the motion failed. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Pan Am Railways, Inc. removed Complainant David Crockett from service and refused to return him to work in retaliation because he engaged in protected activity in violation the Maine Human Rights Act and Whistleblowers' Protection Act. 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable Grounds to believe that Pan Am Railways, Inc. removed Complainant David Crockett from service and refused to return him to work due to disability (unlawful medical inquiries) in violation of the Maine Human Rights Act. 2 in favor | 2 opposed (Chandler and Vestal opposed).

E12-0617: Anita Record (Augusta) v. State of Maine, Department of Health & Human Services, Division of Licensing & Regulatory Services (Augusta). Anita Record restated the position of the Complainant. Attorney Kelly Morrell restated the position of the Respondent. Investigator Victoria Ternig restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent retaliated against Complainant Anita Record in violation of the Maine Whistleblowers' Protection Act because she engaged in protected activity. 4 in favor | 0 opposed.

E13-0319: Sarah MacKinnon (Milford) v. Nexxlinx (Atlanta, GA & Orono, ME). Complainant was not present. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Nexxlinx

discriminated against Complainant Sarah MacKinnon on the basis of disability by denying her reasonable accommodations or by terminating her. 4 in favor | 0 opposed.

### **EXECUTIVE SESSION:**

At 1:30 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to move into executive session to discuss litigation with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 4 in favor | 0 opposed.

At approximately 1:45 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to come out of executive session. 4 in favor | 0 opposed.

### **LITIGATION:**

Commissioner Chandler moved, seconded by Commissioner Whitworth

(A) Not to file a complaint in the “reasonable grounds” cases:

- PA13-0051: Duckett v. Jones (RG on race and color)
- E12-0215: Peterson v. Veinote (RG on sexual orientation)
- E12-0025: Sims v. AOS 97 (RG on race, ancestry, national origin, WPA)
- E12-0168, Lavigne v. DEBS Variety (RG on sexual harassment and retaliation)
- E12-0586, Record v. TNT Deems, LLC & Marvindegon-Med34, LLC, (RG against TNT Deems on WPA, NRG for successor business Marvindegon-Med34)
- H13-0586, -0588: (RG on interference with fair housing, not dual-filed with HUD)

And

(B) To file a complaint in the “reasonable grounds” case H13-0585: Brown v. Payne (Tommy Sr.) (RG on interference with fair housing) (HUD dual-filed).

4 in favor | 0 opposed

### **ADJOURNMENT:**

There being no further business to come before the Commissioner Chandler moved, seconded by Commissioner Thompson, to adjourn the meeting the meeting at 1:49 p.m. 4 in favor | 0 opposed.

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**

E12-0041: Sherri Jewell (Livermore Falls) v. Technical Construction, Inc. (Turner)	NRG
E12-0137: Thomas White (Barrington, Rhode Island) v. Huawei Technologies USA, Inc. (Plano, TX)	NRG
E12-0203: Nathan Pinkham (Randolph) v. Uplift, Inc. (Gardiner)	NRG
E12-0320: Roger Mapili (Westbrook) v. Rodney Joslyn d/b/a Pandemonium (Portland)	NRG
E12-0417: Amanda Jones (Portland) v. Westbrook School Department (Westbrook)	NRG
E12-0551: Judith Pelton (Westbrook) v. BJ's Wholesale Club # 0029 (Portland)	NRG
E12-0625: Thomas Coulombe (Bucksport) v. Northern Bay Residential & Living Center d/b/a Penobscot Nursing Home (Penobscot)	NRG
E13-0006: Paul Spencer (Cumberland) v. Microsoft Corporation (Redmond, WA)	NRG
E13-0342: Jeffrey Holmes (South Portland) v. National Distributors, Inc. (South Portland)	NRG
H13-0449: Haji Mohamud & Faduma Shaie (Portland) v. Emerald Management Corporation, EMC Affordable Housing Preservation, & Diana MacDonald (Westbrook)	NRG
H13-0450: Haji Mohamud & Faduma Shaie (Portland) v. Gary Kennedy (Westbrook)	NRG
H13-0451: Haji Mohamud & Faduma Shaie (Portland) v. Jane Doe (Portland)	NRG