



# Maine Human Rights Commission

# 51 State House Station - Augusta, ME 04333

**Patricia E. Ryan**  
*Executive Director*

**John P. Gause**  
*Commission Counsel*

## **COMMISSION MEETING MINUTES**

*Senator Conference Center (Best Western) Embassy Room  
284 Western Ave ~ Augusta, Maine*

**May 24, 2010**

Commissioner Vestal called the May 24, 2010 Commission meeting to order at 8:34 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, A. Mavourneen Thompson.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Patricia Ryan requested that case E09-0502 Barrett v. Spinglass be moved to the Consent Agenda.

Commissioner Chandler moved, seconded by Commissioner Perry 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 Thompson, 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 Thompson, to adopt the April 12<sup>th</sup> Commission Meeting Minutes. 3 in favor | 0 opposed.

### **ADMINISTRATION**

- Personnel Report: Executive Director Patricia Ryan reviewed the report, dated May 19, 2010, indicating no significant staffing changes but announced the Domini Pham will be filling the vacant Field Investigator position.

### **COMPLIANCE**

- Compliance Report: Commissioners reviewed Fran Davis' report and it was placed on file.

Commissioner Chandler moved, seconded by Commissioner Thompson to accept the Conciliation Agreement in E08-0329 Dellarma v. Skowhegan SNF Operations d/b/a Cedar Ridge Center as the matter been resolved between the parties. 3 in favor | 0 opposed.

## INVESTIGATION

- New Charges: Commission staff opened 33 new cases in April.
- Administrative Dismissals: Commission staff administratively dismissed 16 cases in April.
- Pre-determination Settlements: During the months of March, investigators were responsible for obtaining settlements in 23 cases resulting in a total monetary relief in excess of \$57,015.

## NEW BUSINESS:

At 8:38 Chair Vestal called for a 10 minute recess.

## CASES VOTED ON:

At 9:04 AM Commissioner Fredette arrived at the meeting.

E08-0403: Figen Aouragh (Portland) v. Eastland Park Hotel (Portland): Complainant was not present. Respondent was not present. Commissioner Thompson moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Complainant, Figen Aouragh, was subject to illegal sexual harassment or retaliation (for reporting sexual harassment or whistleblowing) by the Respondent, Eastland Park Hotel. 3 in favor | 0 opposed.

E08-0484: Catherine Carson-Gabriel (Farmington) v. Central Me Community College (Auburn): Catherine Carson-Gabriel restated the position of the Complainant. Attorney Amy Homans restated the position of the Respondent. Commissioner Chandler moved, seconded by Commissioner Thompson to find no reasonable grounds to believe Central Maine Community College subjected the Complainant, Catherine Carson-Gabriel, to discrimination in employment because of her gender, perceived mental disability, or whistleblowing. 3 in favor | 1 abstained (Fredette abstained).

E08-0421: Mohamud Farah (MN) v. Nichols Portland (Portland): Mohamud Farah with assistance of an interpreter restated the position of the Respondent. Christine Fox, Human Resources, restated the position of the Respondent. Field Investigator Michele Dion restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Nichols Portland discriminated against Mohamud Farah based upon race, color and national origin. 3 in favor | 1 opposed (Thompson opposed).

E08-0422: Mohamud Farah (MN) v. Gratwick Enterprises d/b/a Bonney Staffing (Portland): Mohamud Farah with assistance of an interpreter restated the position of the Respondent. Nicole Aberlee, Human Resources, restated the position of the Respondent. Field Investigator Michele Dion restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Nichols Portland discriminated against Mohamud Farah based upon race, color and national origin. 3 in favor | 1 opposed (Thompson opposed).

E08-0591: Keith Ellis (Augusta) v. Farrin Power Sports, LLC (Augusta). Attorney Robert J. Stolt restated the position of the Respondent. Attorney Francis Griffin restated the position of the Complainant. Field Investigator Michele Dion restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Farrin Power Sports, LLC is liable for sexual harassment of Complainant, Keith Ellis. 4 in favor | 0 opposed. Commissioner Fredette moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that the Respondent, Farrin Power Sports, LLC retaliated against Complainant, Keith Ellis, because of Whistleblower retaliation. 4 in favor | 0 opposed.

E08-0614: Adam Roy (Hollis) v. Maine Drilling & Blasting, Inc. (Gardiner): Attorney Maria Fox restated the position of the Complainant. Attorney Richard Moon restated the position of the Respondent. Field Investigator Robert Beauchesne restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Complainant, Adam Roy, was subject to unlawful discrimination in employment (failure to provide reasonable accommodations, or in being selected for layoff) due to his physical disability. 4 in favor | 0 opposed.

E08-0616: Allyson Coro (Lincoln) v. Penobscot Valley Hospital (Lincoln): Complainant was not present. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Fredette to find no reasonable grounds to believe that the Complainant, Allyson Coro, was subjected to illegal retaliation by the Respondent as a result of the Complainant's whistleblowing in making a report of sexual harassment; and / or disability discrimination. 4 in favor | 0 opposed.

E08-0653: James Ossenfort (Northport) v. Rite Aid of Maine, Inc. (Hampden). Complainant was not present. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Rite Aid of Maine, Inc. discriminated against Complainant, James Ossenfort, on the basis of age or retaliated against him for filing a complaint of age discrimination. 4 in favor | 0 opposed.

The following case was taken out of order to accommodate the schedule of the Respondent's attorney.

E09-0029: Rachel Swanson (Lewiston) v. Alternative Services – Northeast, Inc. (Lewiston): Rachael Swanson restated the position of the Complainant. Tom Delougity, Board Member restated the position of the Respondent. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, ASI-NE, discriminated against Complainant, Rachael Swanson, because of Whistleblower retaliation. 4 in favor | 0 opposed.

Commissioner Fredette left the meeting at 11:26 AM.

E09-0007: Brenda Kaler (S Thomaston) v. American Legion Post #1 (Rockland). Brenda Kaler restated the position of the Complainant. Attorney Jim Brant restated the position of the Respondent. Field Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson to find no reasonable grounds to believe that the Respondent, Winslow-Holbrook-Merritt American Legion Post #1, discriminated against Complainant, Brenda Kaler, because of Whistleblower retaliation. 3 in favor | 0 opposed.

E09-0010: April Barrett (E Waterboro) v. N Oasis, Inc. & Robert Montgomery (Rumford). Attorney Elly Burnette restated the position of the Complainant. Respondent was not present. Chief Field Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson to find **reasonable grounds** to believe that the Respondents, N Oasis, Inc., and Robert J. Montgomery, retaliated against Complainant, April Barrett, by terminating her employment. 3 in favor | 0 opposed. Commissioner Chandler moved, seconded by Commissioner Thompson to find that the harassment claim based on race, color, national origin and sex is untimely and that the claim should be dismissed. 3 in favor | 0 opposed.

E09-0049: Richard Campbell (Presque Isle) v. FedEx Express (Presque Isle): Richard Campbell restated the position of the Complainant. Patricia Batts, EEO Advisor, restated the position of the Respondent. Field Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that FedEx Express discriminated against Richard Campbell in the hiring process on the basis of age by denying him an interview and therefore the opportunity for employment. 3 in favor | 0 opposed. Commissioner Thompson moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that FedEx Express violated the Maine Human Rights Act by including an unlawful inquiry (date of birth) on their application for employment. 3 in favor | 0 opposed.

E09-0090: Krista Archer (Kennebunk) v. SB Acquisitions, LLC (Westbrook): Complainant was not present. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Thompson to find no reasonable grounds to believe that the Respondent, SB Acquisition, LLC, terminated Complainant, Krista L. Archer's employment because of disability. 3 in favor | 0 opposed.

E09-0178: Maurius Ramirez (Ellsworth) v. State of Maine/DHHS/Dix Center (Bangor): Assistant Attorney General Melissa O'Dea restated the position of the Respondent. Marius Ramarez restated the position of the Complainant. Commissioner Thompson moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that the Respondent, State of Maine Department of Health and Human Services, Dorthea Dix Psychiatric Center, unlawfully discriminated against Complainant, Marius Ramirez, in the terms, conditions and privileges of employment in connection with the March 2009 discipline but not the December 2008 performance evaluation because of his race, color, national origin and ancestry. 3 in favor | 0 opposed.

**LITIGATION:** Commissioners agreed to move this item to Executive Session.

**EXECUTIVE SESSION:**

Commissioner Chandler moved, seconded by Commissioner Thompson to move into executive session at 1:45 p.m. to discuss litigation with Commission Counsel pursuant to 1 M.R.S.A. §405(6)(E). 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson, to move out of executive session at 1:50 p.m. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson that the Commission **should** file a complaint in H08-0660(A-C) Henry and Amy Jackman v. Abraham Schlosbert and Chuck Dog Realty Trust. 3 in favor | 0 opposed.

Commissioner Thompson moved, seconded by Commissioner Chandler that the Commission **should not** file a complaint in E08-0664, Michael Geschwind v. Sears Corp. 3 in favor | 0 opposed.

**OLD BUSINESS:**

**ADJOURN:**

There being no further business to come before the Commission, the meetings was adjourned at 2:05 p.m.

## CONSENT AGENDA:

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there is no written disagreement to the Investigator's recommendation. Commissioners consider these cases without oral argument by the parties.

PA09-0280:	William Tarr (Carmel) v. J & M Camper Sales & Service (Augusta)	RG
E08-0423:	Burhan Sheikh (Portland) v. Nichols Portland (Portland)	NRG
E08-0424:	Burhan Sheikh (Portland) v. Gratwick Enterprises d/b/a Bonney Staffing (Portland)	NRG
E08-0371:	Michael Gosselin (Oakland) v. Waterville Public Schools and/or Kennebec Valley Consolidated Schools (Waterville)	NRG
E08-0656:	Lynnia Burpee (Lyman) v. Town of Sanford	RG
PA/ED08-0658:	Gregory McDaniels (Kennebunk) v. Cheverus High School (Portland)	NRG
E08-0662:	Roger Michaud (Auburn) v. Titan Machine Products, Inc. (Windham)	NRG
PA09-0001:	David Hamlin (Warren) v. State of Maine/Maine State Prison (Warren)	NRG
PA09-0076:	Christopher Owen (Portland) v. Maine Medical Center (Portland)	NRG
E09-0156:	Jose Rodarte (Lewiston) v. Maine Ag, LLC (Turner)	NRG
E09-0444:	Colleen Huntington (Gardiner) v. Community Correctional Alternatives (Waterville)	RG
H09-0572:	Tamara Green (Orono) v. The Housing Foundation et al (Orono)	RG/NRG
H10-0113:	Annette Hodge, Foster Kane, Dustin Hardison & o/b/o minors (Surry) v. ELAD, Inc. d/b/a Colonial Inn (Hancock)	NRG
E09-0502	April Barrett v. Spinglass Management Group, LLC	NRG