



MAINE HUMAN RIGHTS COMMISSION  
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April 7, 2011

Re: E10-0474,

Dear Mr.            and Mr.

Please be advised that Respondent's request for administrative dismissal is denied.

Respondent requests dismissal based on an arbitration agreement between it and Complainant. The arbitration agreement requires, in pertinent part, that "[a]ny controversy or claim arising out of, or relating to, this Agreement, or the making, performance, or interpretation thereof, shall be settled by an arbiter. . . ." I understand that Complainant has initiated arbitration proceedings pursuant to this provision.

Regardless of whether Complainant must arbitrate his Maine Human Rights Act dispute with Respondent, an arbitration agreement does not preclude the Commission from conducting its investigation. *See EEOC v. Waffle House, Inc.*, 534 U.S. 279, 282 (2002) (EEOC not subject to arbitration agreement between the parties). The Commission has an independent statutory obligation to conduct non-adjudicatory investigations of alleged violations of the Maine Human Rights Act. 5 M.R.S.A.

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§4612(1)(B). The cases cited by Respondent are not to the contrary. *See Preston v. Ferrer*, 552 U.S. 346, 359 (2008) (“Enforcement of the parties' arbitration agreement in this case does not displace any independent authority the Labor Commissioner may have to investigate and rectify violations of the TAA.”); *Gilmer v. Interstate/Johnson Lane Corp.* 500 U.S. 20, 28 (1991) (“An individual ADEA claimant subject to an arbitration agreement will still be free to file a charge with the EEOC, even though the claimant is not able to institute a private judicial action. Indeed, Gilmer filed a charge with the EEOC in this case.”).

Respondent's answers to the Commission's Request for Information and Documents are due no later than May 6, 2011.

Sincerely,

Patricia E. Ryan  
Executive Director