



## Maine Human Rights Commission

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### COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

**August 8, 2011**

Commissioner Vestal called the August 8<sup>th</sup>, 2011 Commission meeting to order at 8:30 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, and A. Mavourneen Thompson.

Commissioner Vestal called for adoption of the agenda.

- Acting Executive Director John P. Gause requested that case E09-0533: Patricia Brennan v. Independence Association Inc. (Brunswick) be tabled because of settlement.
- Acting Executive Director John P. Gause requested that case E09-0614 Thayer v. Cianbro Corp. be tabled because of settlement.
- Acting Executive Director John P. Gause requested that case E10-0013 Bernier v. Maine State Employees Association be tabled to the September Commission Meeting at the request of one of the parties.
- Acting Executive Director John P. Gause requested that case E10-0357: Dunphy v. Blueberry Ford, Inc. be tabled to the September Commission Meeting at the request of one of the parties.
- Acting Executive Director John P. Gause requested that case E11-0139: Christopher Davis v. Auburn Concrete be tabled to the September Commission Meeting at the request of one of the parties.
- Acting Executive Director John P. Gause requested that case H11-0184: Manuel v. P & W Baron be tabled to the September Commission Meeting at the request of one of the parties.

Commissioner Chandler moved, seconded by Commissioner Thompson 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 June 27<sup>th</sup> Commission Meeting Minutes as amended. 3 in favor | 0 opposed

## QUARTERLY PROGRAM REVIEW

- Inventory Status Report & Resolutions: There were 814 open cases at the end of July 2011. The Commission closed 190 cases during the preceding quarter; 44 of those cases were closed providing some benefit to Complainants. The monetary amount recovered for Complainants during that time period was \$582,558.
- Training/Education: Commissioners reviewed the second quarter report and it was placed on file.
- Litigation - Commissioners agreed to move this item to another part of the agenda when the Commission could go into Executive Session.
- Financial: Commissioners reviewed the quarterly financial report and it was placed in the file.

## ADMINISTRATION

Personnel Report: Acting Executive Director John P. Gause reviewed the report dated August 2, 2011 noting the completion of the summer law student internship. The Commission expects two new interns to begin in the fall.

## COMPLIANCE

Compliance Report: Commissioners reviewed the compliance report and it was placed on file.

Commissioner Chandler moved, seconded by Commissioner Thompson to dismiss E09-0576: Colleen Mercier v. Sappi Fine Paper as the case has been resolved by the parties. 3 in favor | 0 opposed.

## INVESTIGATION

- New Charges: Commission staff opened 65 new cases in June, and 51 cases in July.
- Administrative Dismissals: Commission staff dismissed 56 new cases in June, 38 cases in July. Pre-determination Settlements: During June and July, staff were responsible for obtaining settlements in 8 cases resulting in total monetary relief in excess of \$103,380 for complainants.

**LITIGATION:** Moved to Executive Session.

## NEW BUSINESS:

At 8:36 Chair Vestal called for a 6 minute recess.

## CASES VOTED ON:

E09-0468: Mark McCue (Newport) v. Tel-Power, Inc. (Newport): Attorney Sean Ocepka restated the position of the Complainant. Attorney Anne-Marie Storey restated the position of the Respondent. Investigator Domini Pham restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that the Respondent, Tel-Power, Inc., engaged in unlawful discrimination against Complainant, Mark J. McCue, by unjustifiably delaying and denying reasonable accommodations for his disabilities. 2 in favor | 1 opposed (Vestal opposed).

E09-0499: Sonia Segeda (Frankfort) v. Goodwill Industries of Northern New Eng. (Portland): Sonia Segeda restated the position of the Complainant. Attorney Rick Finnberg restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson to find no reasonable grounds to believe that Goodwill Industries

of Northern New England discriminated against Ms. Segeda based upon race, and color or that she was discriminated against on the basis of physical or mental disability. 3 in favor | 0 opposed.

The following cases were taken out of order.

E10-0043: Daimon Clark (Augusta) v. Kenway Corporation (Augusta)

E10-0044: Daimon Clark (Augusta) v. Kopp (Ian) (Augusta)

E10-0045: Daimon Clark (Augusta) v. Hall (Michael) (Augusta)

E10-0046: Daimon Clark (Augusta) v. Norton (Charles) (Augusta)

E10-0047: Daimon Clark (Augusta) v. Gravelle (Paula) (Augusta)

Mavourneen Thompson abstained from voting on this case. The remaining two Commissioners are not sufficient for quorum on the above cases, as such Commissioner Chandler moved, seconded by Commissioner to table this case to the September meeting. 3 in favor | 0 opposed.

E09-0548: Allen Winchenbach (Portland) v. TD Bank NA (Portland): Allen Winchenbach restated the position of the Complainant. Attorney Phillip Moss restated the position of the Respondent. 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, TD Bank, terminated Complainant, Allan Winchenbach's employment because of sexual orientation and Whistleblower retaliation. 3 in favor | 0 opposed.

At 9:58 Chair Vestal called for a ten minute recess.

E09-0550: Ernest Wallach (Pownal) v. Boy Scouts of America (Irving, TX): 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, Boy Scouts of America, is liable for age discrimination. 3 in favor | 0 opposed.

E09-0565: Jean Ellis (Biddeford) v. Spring Harbor Hospital (Westbrook): Commissioners Thompson and Chandler abstained from voting on this case. The remaining Commissioner is insufficient for quorum. Commissioner Chandler moved, seconded by Commissioner to table this case to the September meeting. 3 in favor | 0 opposed.

E10-0109: Kathy Benner (Waldoboro) v. New Castle Publick House (New Castle): Kathy Benner restated the position of the Complainant. Attorney Lori L. Dwyer restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Thompson moved seconded by Commissioner Chandler to find **reasonable grounds** to believe that Respondent, NewCastle Publick House, engaged in unlawful employment discrimination due to sex (hostile work environment) by failing to take immediate and appropriate corrective action in response to the Complainant's report of sexually offensive lyrics being played by co-workers. 3 in favor | 0 opposed. Commissioner Chandler moved, seconded by Commissioner Thompson to find no reasonable grounds to believe that the Complainant was otherwise subjected to discrimination in employment (terms and conditions of employment, discipline) due to her sex and/or age. 3 in favor | 0 opposed.

E10-0451: Robert Demers (Montville) v. L N Violette Co Inc. (Fairfield): Robert Demers restated the position of the Complainant. Attorney Robert Kline restated the position of the Respondent. 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 the Respondent, L.N. Violette Co., Inc., placed Complainant, Robert Demers, on layoff status because of age. 3 in favor | 0 opposed.

E10-0532: Tim Trask (Old Town) v. Swish Kenoco Ltd. (Holden). Attorney John Hamer restated the position of the Complainant. Attorney Ed Gould restated the position of the Respondent. Chief

Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that Respondent, Swish Kenco, Ltd, discriminated against the Complainant, Timothy A. Trask, on the basis of disability by terminating his employment. 3 in favor | 0 opposed.

E10-0624: Lorraine Gagnon (Augusta) v. Goold Health Systems (Augusta): Lorraine Gagnon restated the position of the Complainant. Attorney Katharine Rand restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Goold, is liable for age discrimination or whistleblower retaliation of Complainant, Lorraine Gagnon. 3 in favor | 0 opposed.

#### **EXECUTIVE SESSION:**

Commissioner Chandler moved, seconded by Commissioner Thompson to move into executive session at 11:35 a.m. to discuss confidential records and litigation with Commission Counsel pursuant to 1 M.R.S.A. §405(6)(A); (E); and (F). 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson, to move out of executive session at 11:53 a.m. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson that the Commission **should not file** a complaint in E10-0586: Marc Matter V. Hostess Brands. 3 in favor | 0 opposed.

#### **ADJOURN:**

There being no further business to come before the Commission, the meeting was adjourned at 2:30 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.

E09-0500: Lynne Nash (Augusta) v. SOM/Dept. of Defense et al (Limestone)	NRG
E09-0530: John Verrington (Brunswick) v. Diesel Direct Inc. (Stoughton, MA)	NRG
E09-0538: Phillip Getchell (Corinth) v. SOM/DHHS (Augusta)	NRG
E10-0026: Armand Paquin (Bangor) v. Securitas Security Svcs. (Westlake Village, CA)	NRG
E10-0057: Carolyn Boyington (Herman) v. Bangor Pipe & Supply, Inc. (Bangor)	NRG
E10-0058: Carolyn Boyington (Herman) v. Armstrong (Don) (Bangor)	
E10-0288: Philip DuBois (Madawaska) v. Twin Rivers (Madawaska)	NRG
E10-0289: Roger Cyr (Madawaska) v. Twin Rivers (Madawaska)	
E10-0396: Deborah Conlon (North Waterboro) v. Hannaford Bros. (Portland)	NRG
E10-0424: Krista Pelletier (Naples) v. Claire's Boutiques, Inc. (Hoffman Estates, IL)	NRG
E10-0437: Lynn Valcourt (Steep Falls) v. Maine Medical Partners (Windham)	NRG
E10-0452: Kristina Pingree (Westbrook) V. Quintel IV, LLC/McDonald's (Portland)	NRG
E10-0633: Enoch Young (Albion) v. Johnnys Selected Seeds (Winslow)	NRG
E11-0133: Michael Larrabee (Saint Albans) v. RSU 24 (Ellsworth)	NRG
E11-0174: Daniel Palmer (Dixfield) v. Verso Paper LLC (Jay)	NRG
E11-0179: Nancy Hudak (New Sweden) v. Maine Education Assoc. (Augusta)	NRG
E11-0198: Richard Compagnon (Winslow) v. Families Matter Inc (Hallowell)	NRG
H11-0225: Robert Brogden (South Portland) v. Me. Prop. LLC/Oliver K (Scarborough)	NRG
H11-0226: Robert Brogden (South Portland) v. Lamb (John) (Saco)	
H11-0229: Ricky Emery/ Marcy Runnells (Old Town) v. Degaribody (John) (Old Town)	NRG
H11-0265: Colleen Keefe (Brewer) v. Miller (Robert) (Bangor)	NRG
H11-0298: Tabatha Woodside (Portland) v. Adams Management (Portland)	NRG
H11-0299: Tabatha Woodside (Portland) v. Phyl/Bob LLC (Bar Harbor)	