

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS- MAY 26, 2005

A meeting of the Commission for Human Rights was held in the agency conference room on Thursday, May 26, 2005. Present at the meeting were Commissioners Iraida Williams and Dr. John Susa, Chair. Camille Vella-Wilkinson, arrived at 10:15 am. Commissioner Williams left before 10:15 am. Absent were Commissioner Jean Stover, Alton W. Wiley, Jr., Randolph Lowman, Joaquin F. Gomes.

The Commission had an information session.

Status Report: Michael D. Évora, Executive Director-

A written report was handed out - Attached - new information is in bold print

Case Production Report - Attached

Aged Case Report - Attached

Outreach Report - Attached

STATUS REPORT - COMMISSIONERS-

GENERAL STATUS:

STATUS REPORT - LEGAL COUNSEL, Cynthia M. Hiatt and Francis L. Gaschen

LITIGATION: report attached. New information is in bold print

LEGISLATION: Discussed

REGULATIONS: No action at this time.

Commissioner Meeting -2- May 26, 2005

HEARING SCHEDULE: Discussed

DECISIONS: No discussion

The meeting adjourned at 10:55 a.m. The next regular meet-ing of the

Commissionis scheduled for Thursday, June 30, 2005 at 9:00 am.

Respectfully Submitted,

Michael D. Évora
Executive Director

Notes taken by: B. Ross

To: Michael Évora

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: May 26, 2005

Recent developments are in bold.

American Legion v. John B. Susa, Camille Vella-Wilkinson and Jean Stover in their official capacities and Cote, Stifano and Potter

The respondent appealed the decision in favor of complainants and moved for a stay of the Commission decision and order. The parties agreed to a consent order that the enforcement of the Commission order would be stayed during appeal and that respondent would not dispose of its assets during appeal. The decision on attorney's fees issued. The Commission has filed the administrative record with the court. The parties were circulating a proposed briefing schedule. Counsel has called to see whether the briefing schedule was filed and was told that it has not been filed. Apparently the proposed time given for filing briefs was considered too short and the counsel for the parties are discussing a new proposal for a briefing schedule.

Gaffney v Town of Cumberland et al

The respondent appealed the Commission decision. The parties and the Commission filed briefs. The case was assigned to Judge Savage. Judge Savage held a status conference with the attorneys, including Commission counsel, on January 21. Judge Savage indicated that she is close to issuing a decision but wished to give the parties an opportunity to discuss resolution. The attorneys for the complainants and respondents plan to discuss the case. Another status conference was scheduled with Judge Savage on February 14; it has been put on hold because Mrs. Gaffney was out of state. The complainant will be submitting an offer to the respondents soon. Counsel called complainant's attorney on 4/21.

Hiroi v. Bodell, et al.

On April 13, 1996, complainants filed a charge of familial discrimination in the rental of housing. The respondents elected and a Superior Court case was brought on behalf of the complainants by the Attorney General's office. That case was ultimately dismissed for want of prosecution on April 15, 2004. On April 14, 2005, we became aware of the dismissal. A motion to re-instate the case has been filed. Both the AG and the Hiroi family have been notified. The hearing was scheduled for 5-17-05. The defendants have filed objections to the motion to re-instate. Commission Counsel Gaschen has been added as co-counsel with the Attorney General on the case. The hearing was postponed to June 3. An attempt at settlement is

being made by our office.

Joint v. DeMarkey and Rhode Island Commission for Human Rights

The individual respondent filed an appeal of the Commission Decision and Order. The Commission issued the decision on attorney's fees. The respondent filed an amended appeal to include its appeal of the Commission Decision on Attorney's Fees. The Commission has filed the administrative record. The parties have agreed to a briefing schedule, Mr. Joint's brief is due June 1, the Commission brief and the complainant's brief are due 30 days after we receive Mr. Joint's brief.

King v. City of Providence Police Dept.

This is a case in which the Commission issued a decision finding that the City of Providence had denied Mr. King a position as a police officer because of his age. The Commission had not yet determined damages when the FUD's decision came down, so the Commission decision was not final and the respondent had the opportunity to have the case heard in Superior Court. The respondent elected to have the matter heard before the Superior Court. The complainant conducted a record deposition of Cynthia Hiatt on March 12. The respondent may schedule a further deposition of Ms. Hiatt. The parties have also deposed former Commission employee Nancy Kolman. Ms. Hiatt was under subpoena to testify at the trial, but the trial has been postponed. At the last minute, the Judge agreed to

hear complainant's motion for summary judgment, which argued that the Court should disallow respondent from having a hearing in court because the hearing at the Commission was complete before the FUD's decision came down. The court denied the motion for summary judgment. The complainant had planned to appeal. Counsel for the complainant decided that he would not appeal and the trial date has been rescheduled.

Moore v. Tri-Way Security

Respondent has filed for bankruptcy. Outstanding is a motion for legal fees to complainant's attorney. We will prepare this for ruling.

RICHR on behalf of Canlas v. Bay Management Co., Oxbow Associates & Tammy Nelson

Suit in the name of the Commission was brought in Newport County Superior Court on behalf of Mr. Francisco Canlas and his brother. The suit alleges they were discriminated against in housing because of race and ancestral origin. The Commission is the plaintiff because our contract with HUD provides that we bring suit if neither private counsel nor the AG will represent the plaintiff. All defendants were served with the complaint and a Request for Production of Documents. The defendants answered the complaint. Interrogatories were served. The case was settled; documentation is being prepared to dismiss the complaint. A follow-up was made to counsel for the respondent.

RICHR and Lovegrove v. Escolastico

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-24-05. Service of the complaint will be made once respondent can be located in Florida.

RICHR and Morin v. Teofilo Silva, et al.

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-24-05. Service of the complaint will be made once respondent can be located.

RICHR and Rossi v. Attruia

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-29-05. Defendant to be served. We are having some difficulties with service. Hearing on May 17, 2005. Defendant was served and a hearing was held at which time the Court continued the matter to June 3 to allow the respondent to speak to an attorney.

RICHR and Scurry v. C & H Investments, et al.

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 9-1-04. Defendants were served on 9-13-04. No answer was filed, the defendants defaulted and judgment entered. Counsel has spoken with an attorney to resolve this claim. The attorney does not represent the Costas but is a friend who was acting as a conduit for settlement negotiations. The offer was sent to the complainants, they rejected it. An Exemplified copy

of the Judgment was obtained. Action will be brought against the respondents in Florida as they refuse to comply with the Decision. Further legal action is being taken to collect the judgment.

RICHR and Solis v. Lombardo

The respondents filed an appeal of the Commission decision that found discrimination. The Commission filed the administrative record. The parties agreed on a briefing schedule. The respondents' appeal was dismissed for lack of action. A petition to enforce the Decision of the Commission was filed, answer for defendants filed and the matter was scheduled for hearing and then continued. The complainant was paid and we are in the process of negotiating resolution of relief to the Commission. Hearing on May 17, 2005. The hearing was postponed to June 3 to allow us more time to have the agreement signed by all parties.

RICHR and Texeira v Biernacki

Judge Clifton dismissed the appeal as untimely filed. The R.I. Supreme Court denied a petition for certiorari. The complainant's attorney and the Commission filed a Petition to Enforce as a new case. The respondent was served. Petition for Enforcement granted on September 22, 2004. The Judgment was stipulated to, with terms of payment in the accompanying Order. Payment was due to the State of Rhode Island on October 11. While the CP has been paid, the Commission has not yet been paid. Negotiations on extended

payment plan commenced. Execution ordered as respondent failed to comply with agreement. Service of execution upon the respondent has been difficult to effectuate. Further legal action is being taken to collect the judgment.

RICHR and Zeigler v. Laura Sitrin, Finance Director of the City of Newport

The Commission found discrimination in 1988. The respondent filed an appeal but did not take action on the appeal. Since the court dismisses cases in which no action has been taken in five years, it appears that the appeal has been dismissed. The Petition for Enforcement was filed and discovery requests have been drafted. Service of suit was accepted by counsel for city. Answer filed. The matter was assigned to January 14, 2005. Negotiations with the city are ongoing to resolve its compliance with the Decision of the Commission. The complainant was paid. All remaining issues were resolved in Court on 4-15-05, and the City has been ordered to conduct training.

Tucker v. Blue Cross

The complainant filed an administrative appeal of the Commission's finding of no probable cause. The Commission had received stipulations extending the time in which it must file the record as the complainant had represented that the parties were discussing settlement. The Commission is currently seeking a stipulation on the record to be filed; two of the three attorneys have signed it and we

are waiting for the third. Two reminders sent to the other attorney.
The administrative record was filed in Court.

**EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
MAY 26, 2005**

I. BUDGET

Theo Toe, the Commission's Budget Analyst, has indicated that the negative federal fund balance brought to light in FY 2004 should be eliminated by the end of this fiscal year.

According to Mr. Toe, the Commission is performing well within the budget allocation for this fiscal year.

Per the 2005 Appropriations bill (H-5270):

	FY 2005	FY 2005	FY 2006
	(Enacted)	(Revised)	(Enacted)
State	984,444	989,299	979,397
Fed.	239,300	213,808	269,705
Total	1,223,744	1,203,107	1,249,102

***Compare FY 2004 Actual: 1,101,287**

I spoke with Theo Toe this month and confirmed that the Commission

is on target to eradicate the red balance which has existed for the past two years by the end of this fiscal year; the Commission is operating well within its FY 2005 budget appropriation.

II. FEDERAL CONTRACTS

EEOC – The FY 2005 contract is for 328 cases. As of 5/12/05, according to EEOC Project Director Marlene Toribio, we have closed 190 co-filed cases for EEOC FY 2005; we must close 165 by 9/30/05 to complete the contract. We will be given the opportunity to request an upward or downward modification in July, after the close of the third quarter.

HUD –For FY 05, according to HUD Project Director Angela Lovegrove, we have taken in 30 new housing charges.

III. PERSONNEL

Glenn Cardozo, Sr. Compliance Officer, contacted the Commission last week and indicated that he may be home from Iraq in September!

IV. OUTREACH – See attached report.

V. GENERAL STATUS

●Meetings with staff members – I continue to meet with

individual investigative staff members on a monthly basis to monitor case production.

●Case Closures – Refer to attached report. Statistics for the first ten months of FY 05 reveal that, despite our staffing shortages, we have processed nearly as many cases as the full staff had processed by this time last year.

●Aged Cases – Refer to attached report. Progress continues to be made on decreasing the aged caseload. The Commission successfully reduced the aged caseload by 81.2% (from 85 to 16 cases) in EEOC FY 04. As of the date of this report, there remains one (1) aged case in investigation; it is expected that this case will close by the end of June. We hope to enter the next EEOC fiscal year with NO aged cases in investigation. (I have identified two (2) cases which would become aged as of 10/1/05 and am working with the Investigators who have these cases to ensure that they are closed/processed before that date.)

●Commissioner (Re)Appointments – This afternoon, at the Rise of the Senate in Room 313 of the State House, the Senate Judiciary Committee will hold a hearing on the Governor’s appointment of Alberto Aponte Cardona to fill one of the prospective Commissioner vacancies. I will be present to support the appointment and answer any questions the Committee may have. If the Committee votes favorably, the appointment will be brought

before the full Senate for a vote on confirmation.

- **Miscellaneous**

- General Progress:**

Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of fiscal 1998. That number has steadily decreased, and the Commission ended FY 2004 with 602 cases in inventory. As of 5/12/05, there were 394 cases in inventory.

- The Performance Audit by the Department of Admin./Bureau of Audits has been completed. Mary Murphy, who conducted the audit, has indicated that she is in the process of finalizing the report based on input from her superiors. We should receive a draft shortly.**

- New computers – As reported two months ago, the Commission has purchased new computers for the entire staff. Jason Flanders is working with the State's IT staff to coordinate the setup of the computers.**

- Two grievances were filed against the Commission related to 1) interpreting services provided by staff, and 2) payment of Union dues by temporary employees (Jay Flanders and Susan Pracht). Both grievances were denied after a third-level hearing (held on October 19). The Union has appealed the denial of the second grievance; arbitration is scheduled to be held in October.**

Respectfully submitted,

Michael D. Évora
Executive Director

Attachments