

**EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
SEPTEMBER 29, 2005**

I. BUDGET

On September 13, 2005, the Commission submitted its annual budget request (FY 2006 Revised and FY 2007 Proposed) to the Governor.

The salient details are:

	FY 2005	FY 2006	FY 2007
	(Actual)	(Revised)	(Request)
State	990,560	1,005,908	1,058,230
Fed.	107,662	312,482	324,862
Total	1,098,222	1,318,390	1,383,092

To review/obtain a full copy of the request, please see either me or Betsy Ross.

II. FEDERAL CONTRACTS

EEOC – The FY 2005 contract is for 328 cases. As of 8/30/05, according to EEOC Project Director Marlene Toribio, we had closed 315 co-filed cases for EEOC FY 2005; we must close 13 by 9/30/05 to complete the contract.

HUD – For FY 06, according to HUD Project Director Angela Lovegrove, we have taken in 15 new housing charges, nine of which are co-filed with HUD. Within this same time period, we processed six housing charges, 4 of which were co-filed with HUD.

III. PERSONNEL

Senior Compliance Officer Glenn Cardozo has returned safely from Iraq! He visited the office on September 12 (and was treated to a surprise birthday/homecoming celebration). As of 9/12/05, Glenn expected to return to work full time in mid-October.

Investigator Stephen Strycharz has left the Commission (effective 9/3/05) and started his new position with the state's Office of Child Support Services as a Child Support Enforcement Agent I. He is in a six-month leave-to-protect status. The Commission's Request to Fill has been granted and the position will be posted from 10/3/05 to 10/10/05.

IV. OUTREACH – Refer to 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 FY 05 reveal that, despite our staffing shortages, we had another record year; we processed 595 cases as compared to 582 in FY 2004!!!

●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 June 30, there were NO AGED CASES in investigation; the number of such cases in the hearing stage continues to fall.

●Commissioner (Re)Appointments – No new information to report.

●Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. That number has steadily decreased. The Commission ended FY 2004 with 602 cases in inventory. We ended FY 05 with 382 cases in inventory.

- **Miscellaneous**

- The Commission has been selected as one of three agencies to conduct a study of “maximum target caseloads” with FY 2006 as the study period. This selection was made pursuant to a Council 94

conciliator recommendation which the State adopted. The other two agencies participating in the study are the Dept. of Human Services and the Dept. of Elderly Affairs.

On September 28, Cynthia Hiatt and I met with Union representatives to discuss possible means of conducting the study.

-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.

-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, 2004). The Union has appealed the denial of the second grievance; arbitration is scheduled to be held in March 2006.

-FY 2005 Annual Report: I am working with Intern Susan Pracht. The editing process has begun. I expect to have a final version for review/signature by Dr. Susa by the end of next month.

Respectfully submitted,

Michael D. Évora
Executive Director

Attachments

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS- September 29, 2005

A meeting of the Commission for Human Rights was held in the agency conference room on Thursday, September 28, 2005. Present at the meeting were Commissioners Dr. John Susa, Chair, Camille Vella-Wilkinson, Iraida Williams and Alton Wiley, Jr. Absent were Commissioner Jean Stover, Alberto Aponte Cardona and Randolph Lowman. The meeting began at 9:10 am.

A motion to accept the minutes of July 28, 2005 was made by Iraida Williams. The motion was seconded by Commissioner Vella-Wilkinson and carried.

A motion to accept the special meeting minutes of August 18, 2005 was made by Commissioner Vella-Wilkinson. The motion was seconded by Commissioner Wiley and carried.

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: No report at this time.

OUTREACH: Commissioner Vella Wilkinson reported that she held six (6) training sessions on the prevention of sexual harassment and held five (5) training sessions on employees rights to privacy in the Asian community. Frank Gaschen, Legal Counsel will generate a form for Commissioners outreach activities.

Commissioner Meeting -2- September 28, 2005

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

LITIGATION: report attached. New information is in bold print

LEGISLATION: No report at this time.

REGULATIONS: No action at this time.

HEARING SCHEDULE: Discussed

DECISIONS: No discussion

The meeting adjourned at 10:25 a.m. The next regular meet-ing of the

Commission is scheduled for Thursday, October 27, 2005 at 9:00 am.

Respectfully Submitted,

Michael D. Évora

Executive Director

Notes taken by: B. Ross

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: September 29, 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 filed the administrative record with the court. The respondent's brief was received by the Commission on July 25. The complainants' brief was received by the Commission on August 1, 2005. The Commission brief was filed in mid-August. The case has been assigned to Judge Lanphear.

Babbitt v. Crescent Park Manor, et al.

The Commission filed a motion to intervene as a party plaintiff in this case. Plaintiff's counsel had no objection to the motion. The motion

was granted. Discovery will commence soon.

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 was close to issuing a decision but wished to give the parties an opportunity to discuss resolution. The attorneys for the complainants and respondents planned to discuss the case. Another status conference was scheduled with Judge Savage on February 14; it was put on hold because Mrs. Gaffney was out of state. Counsel called complainant's attorney on 4/21. Counsel spoke to complainant's counsel in June, the parties were discussing offers. Counsel has called complainant's counsel in July and August. The complainant indicates that she and her attorney are developing an offer.

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 was filed. Both the AG and the Hiroi family were notified. The hearing was scheduled for 5-17-05. The defendants filed objections to the motion to re-instate. Commission Counsel Gaschen was added as co-counsel with the Attorney General on the case. The hearing was postponed to June 3. An attempt at settlement was made by our office. The motion to re-instate was denied. We are waiting for entry of the Order to decide on appeal or a separate lawsuit. A copy of the transcript of the hearing has been ordered. A motion to correct an order was filed. The motion was granted. Final Order and Judgment were filed, waiting for Judge's signature so an appeal can be taken.

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 filed the administrative record. The parties agreed to a briefing schedule, Mr. Joint's brief was due June 1. The Commission brief and the complainant's brief were due 30 days after we received Mr. Joint's brief. Mr. Joint received an extension to file his brief; it was due June 30 and was filed in time. The Commission and the complainant asked to have an extension to file our briefs. The parties agreed that the time for filing these briefs was extended to August 31.

The Commission Brief was filed on August 30. The complainant's

counsel received an extension until the end of September to file his brief. The parties agreed that the respondent could file a reply brief thirty days after the complainant's counsel files his 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 was 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 ruling.

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. Motions for extended time within which to serve and for special service were filed. The motions were granted. Defendant was served 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. Motions for extended time within which to serve and for special service were filed. The motions were granted. Service has not been perfected yet.

RICHR v. Ralston Construction, Inc.

The Commission has filed a petition in the Ralston Construction Receivership seeking permission from the Superior Court to proceed in its investigation of a charge filed against the company. The hearing was scheduled for August 10th. The complainant has also filed a motion for similar relief which will be heard on the same day. Relief granted and the investigation can resume.

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. Hearing on May 17, 2005. Defendant was served and a hearing was held at which time the Court continued the matter to September to allow the respondent to speak to an attorney. Case continued by new judge an additional two months.

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. A follow-up has been sent to the cooperating Attorney. Another follow-up sent.

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. A hearing was scheduled for May 17, 2005. The hearing was postponed to July 12 to allow us more time to have the agreement signed by all parties. A follow-up has been sent to Attorney for respondents. We are conducting discovery on whether there is successor corporate liability on one of the respondents for the acts of one of the other respondents. Motions to compel discovery filed.

RICHR v Biernacki, et al.

The Commission filed suit to collect the judgment from the above case that was never paid. An additional claim was filed, alleging that the defendants had engaged in a fraudulent transfer of real property to avoid paying that judgment. A lis pendens was filed on the property. We are in the process of negotiating settlement of the case.

Case was not settled, and motions to serve by special service were granted. Case settled, paperwork being delivered to the Commission shortly.

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. The respondent objected to the Order and we are going to schedule a hearing to determine if the City must conduct the training. Case scheduled for hearing on December 5th.

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.