MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

FEBRUARY 23, 2006

A regular meeting of the Commission for Human Rights was held in the agency conference room on February 23, 2006. Present at the meeting were Commissioners Alberto Aponte Cardona, Camille Vella-Wilkinson, Iraida Williams and John B. Susa, Chair. Absent from the meeting were Commissioners Jean P. Stover, Randolph Lowman and Alton W. Wiley, Jr. The Chairperson called the meeting to order at 9:39 a.m.

A motion to approve the January 26, 2006 minutes was made by Commissioner Vella-Wilkinson. The motion was seconded by Commissioner Cardona and carried.

STATUS REPORT: MICHAEL D. ÉVORA, EXEUCTIVE DIRECTOR

Mr. Évora handed out a written report. All the new information was in bold print.

With respect to the Housing Contract, Mr. Évora noted that the Commission had held a meeting with ACORN, a community organization that had received a Department of Housing and Urban Development FHIP grant for outreach activities. The Commission gave ACORN representatives Commission Intake Questionnaires and

Frequently Asked Questions in English and Spanish. The ACORN representatives agreed to refer matters that could be considered housing discrimination to Angela Lovegrove, Commission HUD Project Director.

Mr. Évora noted, while discussing a matter in the Personnel section of his report, that the individual who had suffered an injury had been sent a letter stating that the Commission planned to discuss matters relating to that injury in executive session and that she could require that the meeting be held in open session. She notified Commission Legal Counsel that she did request that the meeting be held in open session and so the Commission did not go into executive session to discuss her situation.

After Mr. Évora completed discussion of the matters noted in the personnel section of his report, he stated that there were personnel issues relating to a different individual that he would like to discuss in executive session and that he requested that the Commissioners go into executive session under R.I.G.L. Section 42-46-5(a)(1) which allows a public body to hold a meeting closed to the public for the purpose of discussing the job performance, character, or physical or mental health of a person or persons. He stated that the person(s) affected had been notified in writing in advance and advised that they could require that the meeting be held in open session. The person(s) involved did not request an open session. He asked that this be noted in the minutes.

Commissioner Camille-Vella-Wilkinson made a motion that the Commission go into executive session under R.I.G.L. Section 42-46-5(a) (1) which provides that a public body may hold a meeting closed to the public for the following purpose:

Any discussions of the job performance, character, or physical or mental health of a person or persons provided that such person or persons affected shall have been notified in advance in writing and advised that they may require that the discussion be held at an open meeting.

The motion was seconded by Commissioner Cardona and carried. The Commissioners went into executive session at approximately 9:50 a.m. The Commissioners returned to open session at approximately 10:30 a.m. No votes were taken in executive session.

Mr. Évora continued with his report.

Case Production Report – Attached.

AGED Case Report – Attached.

Outreach Report – Attached. The Commissioners gave additional suggestions for outreach activities.

STATUS REPORT: COMMISSIONERS

General Status: no report

Outreach: Commissioner Vella-Wilkinson reported that she had attended a RICAA meeting and a Leadership RI outreach program.

STATUS REPORT: LEGAL COUNSEL, Cynthia Hiatt

Litigation: Report attached.

Legislation: Ms. Hiatt reported on various bills that have been introduced that might affect the Commission and/or civil rights.

Regulations: No discussion at this time.

Hearing schedule: Discussed.

Decisions: Commissioner Williams left the meeting at this time. Commissioners Vella-Wilkinson, Cardona and Susa discussed Massey v. Stanley Bostitch. After review of recent submissions of the parties the Commissioners unanimously agreed that they would decide the issues based on the submissions of the parties, that they would not grant the complainant's request for a new hearing with a new Hearing Officer and a different panel of deciding Commissioners,

and that they would not ask a fourth Commissioner to review the hearing materials. Commissioners Susa and Cardona found that the complainant did not prove that the respondent discriminated against him because of his age. Commissioner Vella-Wilkinson found that the complainant proved that the respondent discriminated against him because of his age. A decision will issue setting forth the specific findings and Commissioner Vella-Wilkinson will file a dissent.

Commissioner Vella-Wilkinson moved to adjourn the meeting; Commissioner Cardona seconded the motion and the motion carried. The meeting adjourned at 11:25 a.m.

Respectfully submitted,

Cynthia M. Hiatt
Legal Counsel

EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
FEBRUARY 23, 2006

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 2006 (Revised)	FY 2007 (Request)	FY 2007 (Recommended)
State	1,005,908	1,058,230	1,075,216
Fed.	312,482	324,862	329,678
Total	1,318,390	1,383,092	1,404,894

The Governor's FY 2007 Recommendation, although representing an increase of $21,802 over our request. Involves a proposed reduction of 0.6 FTE. This is part of the Governor's "reduction-in-force" initiative in an attempt to decrease state-funded staffing statewide. According to Theo Toe, Budget Analyst, and Linda Haley, House Fiscal Agent, the Commission can make a case for an amendment to the proposed reduction when it has its hearing before House Finance. If an amendment is not made, the Commission can request an exemption from the staff reduction requirement from the Budget Office once the budget is passed. In the alternative, the Commission can attempt to identify other expenditures that can be cut in FY 2007 to make up for the proposed FTE reduction. (According to a report from Ms. Haley, the 0.6 FTE reduction is equal to $41,669.)

II. FEDERAL CONTRACTS

EEOC – As of 1/31/06, according to EEOC Project Director Marlene Toribio, we have closed 77 co-filed cases. We do not yet have the FY 2006 contract. (The FY 2005 contract was for 328 cases.)

HUD – For FY 06, as of 2/21/06, according to HUD Project Director Angela Lovegrove, we have taken in 27 new housing charges, 18 of which are co-filed with HUD. Within this same time period, we have processed 23 housing charges, 15 of which were co-filed with HUD.

III. PERSONNEL

Allison Cote, Sr. Compliance Officer, suffered an injury in the elevator on her way into the office on January 30. She is currently out of work. Her scheduled date of return to work is March 3.

IV. OUTREACH – Refer to attached report.

I will be conducting an outreach to the participants in the second class of YEAR Up Providence on May 23. Follow-up calls must be made to Progreso Latino, Youth Pride, Inc. and CHisPA, which have failed to respond to initial inquiries about targeted outreach.

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.

●Aged Cases – Refer to attached report. Progress continues to be made on decreasing the aged caseload. The Commission successfully reduced the aged caseload by 77% in FY 2005 (from 26 to 6 cases).

●Commissioner (Re)Appointments – On January 27, I forwarded to the Governor the résumés of Commissioners Susa and Wiley, conveying their desire to be reappointed. Via the same cover letter, I transmitted the résumés of former Commission employees Nancy Kolman and Gloria Hole, both of whom have expressed interest in serving as a Commissioner.
On 2/1/06, Governor Carcieri sent a letter to the Senate seeking their advice and consent to the appointment of Commissioner Wiley to a term expiring 2/1/10.

●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 and, as of 2/14/06, had 388 cases in inventory.

●EEOC:

1. Maria Salacuse, the Senior Trial Attorney in the Boston Office of the EEOC who visited the Commission in January to conduct a case file review, is monitoring several cases in investigation for potential class action litigation. This seems to be the beginning of a stronger working relationship with the Boston EEOC Office.

2. On February 7, 2006, Electra Yourke, Enforcement Supervisor at the EEOC NY District Office, visited the Commission and conducted an informative training of staff on topics including class action cases, adverse impact (as caused by, e.g., recruitment techniques and job descriptions), and investigative techniques.

●Mediation – The Early Intervention Mediation Program, one of my major goals for this fiscal year, has been initiated. Frank Gaschen and I have identified several newly-filed cases for targeted mediation. Letters of invitation are being sent to the parties in those cases.

• 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. Cynthia Hiatt, Frank Gaschen, Susan Pracht and I are participating in monthly meetings with Union officials to facilitate the study, which includes a survey of the New England regional FEPAs. In addition to studying maximum caseloads, the Commission is exploring the possibility of minimum case production requirements for investigative staff. An internal survey of investigative staff has been conducted. A report of findings, conclusions and recommendations is in the initial stages.

-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 on March 21, 2006.

-FY 2005 Annual Report: The Report should be available for distribution on Thursday, February 23, 2006.

-Susan Pracht is in contact with representatives of the Providence School District in an attempt to coordinate a youth outreach (combined effort of Commission and EEOC) for some time in the

Spring.

Respectfully submitted,

Michael D. Évora
Executive Director

Attachments
To: Commissioners
From: Cynthia Hiatt and Frank Gaschen, Legal Counsels
Re: Litigation
Date: February 23, 2006
Recent developments are in bold.

American Legion Bd. of Gov's. v. American Legion #12
The Board of Governors for the respondent filed a petition for Receivership. The Commission has filed a Motion for Relief from Stay of Proceedings so that the Commission and the complainants may file a Petition to Enforce the Decision and Order of the Commission in the matter of Cote, et. al v. American Legion #12. The Brief on that Motion was filed. The hearing is scheduled for 3-3-06.

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.

Derosa, et al. v. Rossi, et al.

A motion for RICHR to intervene, as a party defendant in this appeal from a Commission Decision, was Granted. Motion to dismiss the long-inactive appeal has been filed with a hearing set for March 7, 2006.

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, 2005. 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, 2005; it was put on hold because Mrs. Gaffney was out of state. After a number of settlement attempts, it did not appear that resolution was near. On 1/4/06, I wrote a letter to the parties stating that if I did not hear from them by 2/6 that the case was close to resolution, I was planning to write Justice Savage to ask her to issue her decision. Not having heard from the parties, on 2/8/06, I wrote Justice Savage and asked her to render her decision as it did not

appear to me that the parties would resolve the matter.

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. 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 motion to re-instate was denied. Final Order and Judgment were filed and signed. Appeal perfected. Rule 12A statement filed. The case was settled. The Release was signed and sent to attorney for respondents. The check was sent to Hiroi family.

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 brief was filed at the end of September. The respondent's time to file a reply brief was extended to November 30, 2005. The respondent requested one more extension and the Commission agreed. Mr. Joint filed his reply brief on December 16, 2005. The complainant is considering filing a short reply to the reply 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 parties have also deposed former Commission employee Nancy Kolman. Ms. Hiatt has been subpoenaed to testify at the trial. The date is not certain but it appears that it will be in early April.

RICHR and Powell v. Cenada.

The respondent elected to have this housing matter resolved outside of the Commission. A notice was sent to the complainant regarding the election and he was advised of his rights and responsibilities. A

copy of the file was sent to the AG. Deadline for filing suit is March 22, 2006. A reminder notice has been sent to the complainant.

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. Motions for extended time within which to serve and for special service were filed. The motions were granted. Defendant was served in Florida. Hearing scheduled for January 4, 2006 on request for default judgment. Default was entered. An Exemplified Judgment was ordered. After it is received, the plan is to find counsel in FL willing to handle a Debt on Judgment case.

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 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. Case continued again at request of defendant to January 4, 2006. Judgment entered against Defendant, payments on which are to start February 1, 2005.

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. FL counsel is filing complaint.

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 were in the process of negotiating resolution of relief to the Commission. Case settled. Follow-up sent

to respondent's attorney regarding compliance.

RICHR v. Warner, et al.

Election letter in this housing case was sent to complainant (Sainrelus) outlining her rights. Deadline was the beginning of December to file suit. Discussed case with Tom Palombo (AG) to arrive at decision as to who files the suit. AG declined the case. Tom Palombo advised of the AG agreement that his office take 3 to 4 cases per year. Superior Court action filed on behalf of RICHR as complainant declined to sue. Attorney for respondents called and he advised that for a "legal costs" payment to Sainrelus, he would recommend settlement. RICHR required that affirmative language be placed in the By-laws that restated state law prohibitions against discrimination. Case appears settled but waiting for confirmation from attorney. Awaiting responses to specifics of the settlement from respondents' attorney and Ms. Sainrelus.

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, the appeal had been dismissed. The Petition for Enforcement was filed. Service of suit was accepted by counsel for city. Answer filed. The matter was assigned to January 14, 2005. Negotiations with the city

were ongoing to resolve its compliance with the Decision of the Commission. The complainant was paid. All remaining issues appeared resolved in Court on 4-15-05, and the City had been ordered to conduct training. The respondent objected to the Order. The hearing was held on February 6, 2006. The Court held that the City must conduct the training. Discussions are now centering on the details of the training.

RICHR v. Starnino

Action was commenced on this file, an enforcement action of a negotiated settlement of a 1987 charge. An offer to compromise has been given to the respondent. Case settled. First check received. Release signed by complainant and first check released to her.

Schooner Cove Homeowners Association v. Dennis Malloy and the Rhode Island Commission for Human Rights

Schooner Cove Homeowners Association, the respondent in a housing case currently scheduled for hearing before the Commission, filed an amended complaint in Superior Court which added the Commission as a defendant. Schooner Cove sought a temporary restraining order (TRO) to stop the Commission hearing scheduled for December 15. At the TRO hearing, Judge Rubine appeared disinclined to stop the Commission hearing but he did express concerns about the Commission hearing Schooner Cove's motion to dismiss and then immediately proceeding to a hearing on the merits. The parties (including the Commission) agreed to a

consent order stating that the Commission hearing would go forward on December 15 on the motion to dismiss only, that if the motion to dismiss was denied, the Commission would consult with the parties on the dates for rescheduling the hearing on the merits. The complainant, Dennis Malloy, has filed a motion to dismiss the court complaint that was scheduled to be heard on January 17. The motion has been rescheduled to April 17.

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.

RHODE ISLAND COMMISSION FOR HUMAN RIGHTS

AGED CASE REPORT*

(EEOC FY 2003)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

11/25/02 158 9 149

12/20/02 148 9 139

1/24/03 139 9 130

2/24/03 125 9 116

3/25/03 115 9 106

4/22/03 105 9 96

5/23/03 93 9 84

6/25/03 86 9 77

7/23/03 82 9 73

8/28/03 69 9 60

9/23/03 66 9 57

9/30/03 63 9 54

***Figures reflect open cases filed between July 1, 1987 and June 30, 1998**

Aged case load reduced in EEOC FY 2003 by 63.8%

RHODE ISLAND COMMISSION FOR HUMAN RIGHTS

AGED CASE REPORT*
(EEOC FY 2004)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

10/28/03 85 12 73

11/28/03 71 12 59

12/26/03 62 12 50

(32 investigation;

18 hearing/conciliation)

1/28/04 54 12 42

(27 investigation;

15 hearing/conciliation)

2/25/04 48 12 36

(20 investigation,

16 hearing/conciliation)

3/19/04 44 12 32

(18 investigation,

14 hearing/conciliation)

4/26/04 40 12 28

(15 investigation,

13 hearing/conciliation)

5/26/04 39 12 27

(15 investigation,

12 hearing/conciliation)

6/22/04 34 9 25

(13 investigation,

12 hearing/conciliation)

7/9/04 28 9 19

(9 investigation,

10 hearing/conciliation)

7/28/04 28 9 19

(9 investigation,

10 hearing/conciliation)

9/23/04 16 1 15

(5 investigation,

10 hearing/conciliation)

***Figures reflect open cases filed between July 1, 1987 and June 30, 1999**

Aged case load reduced in EEOC FY 2004 by 81.2%

AGED CASE REPORT*

(EEOC FY 2005)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

10/12/04 26 2 24

(8 investigation,

16 hearing/conciliation)

11/18/04 21 2 19

(7 investigation,

12 hearing/conciliation)

12/7/04 18 2 16

(5 investigation,

11 hearing/conciliation)

1/7/05 17 2 15

(5 investigation,

10 hearing/conciliation)

2/8/05 14 1 13

(4 investigation,

9 hearing/conciliation)

3/4/05 13 1 12

(3 investigation,

9 hearing/conciliation)

4/7/05 12 1 11

(2 investigation,

9 hearing/conciliation)

5/6/05 11 1 10

(1 investigation,

9 hearing/conciliation)

6/3/05 11 1 10

(1 investigation,

9 hearing/conciliation)

7/5/05 7 1 6

(0 investigation,

6 hearing/conciliation)

8/9/05 7 1 6

(0 investigation,

6 hearing/conciliation)

9/1/05 7 1 6

(0 investigation,

6 hearing/conciliation)

9/30/05 6 1 5

(0 investigation,

5 hearing/conciliation)

***Figures reflect open cases filed on or before September 30, 2000**

Aged case load reduced in EEOC FY 2005 by 77%

AGED CASE REPORT*

(EEOC FY 2006)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

11/02 158

10/03 85

10/04 26

10/7/05 14 1 13

(1= investigation,

12=hearing/conciliation)

11/4/05 10 1 9

(1=investigation,

8=hearing/conciliation)

12/8/05 9 1 8

(1=investigation,

7=hearing/conciliation)

1/9/06 7 1 6

(1= investigation,

5=hearing/conciliation)

2/1/06 6 1 5

(1 = investigation,

4= hearing/conciliation)

3/

(investigation,

hearing/conciliation)

4/

(investigation,

hearing/conciliation)

5/

(investigation,

hearing/conciliation)

6/

(investigation,

hearing/conciliation)

7/

(investigation,

hearing/conciliation)

8/

(investigation,

hearing/conciliation)

9/

(investigation,

hearing/conciliation)

***Figures reflect open cases filed on or before September 30, 2001**

Aged case load reduced in EEOC FY 2006 by XX%