

# **MINUTES OF THE COMMISSION FOR HUMAN RIGHTS**

**January 29, 2010**

**A meeting of the Commission for Human Rights was held in the agency conference room on Friday, January 29, 2010. Present at the meeting were Commissioners Alton Wiley, Jr., Nancy Kolman Ventrone, Dr. John Susa, Iraida Williams, Rochelle Bates Lee and Camille Vella-Wilkinson. Absent was Alberto Aponte Cardona. Commissioner Lee and Ventrone arrived at 9:20 am. Dr. Susa, Chair, called the meeting to order at 9:12 a.m.**

**A motion was made by Commissioner Williams to approve the minutes of December 4, 2009. The motion to approve was seconded by Commissioner Vella-Wilkinson and carried.**

**A motion was made by Commissioner Vella-Wilkinson to approve the minutes of December 11, 2009. The motion to approve was seconded by Commissioner Williams and carried.**

**Status Report: Michael D. Évora, Executive Director**

**A written report was handed out. All new information is in bold print.**

**The director also reported that Stephen Strycharz, Investigator, was elected President of Council 94, Local 2884. Congratulations to**

**Stephen from staff and Commissioners.**

**Case Production Report – Attached**

**Aged Case Report - Attached**

**Outreach Report - Attached**

**Commissioner Meeting -2- January 29, 2010**

**STATUS REPORT - COMMISSIONERS-**

**GENERAL STATUS: No reports at this time.**

**OUTREACH:** Commissioner Iraida Williams was selected as trustee for the RI School for the Deaf and Hearing Impaired. She will represent the parents' interest. Commissioner Vella-Wilkinson reported that she provided EEO Training to the Coalition for Domestic Violence.

## **STATUS REPORT - LEGAL COUNSEL by Cynthia M. Hiatt**

**LITIGATION:** Report Attached

**LEGISLATION:** Cynthia Hiatt reported that the Commission sent a letter to Gordon Fox, Majority Leader, requesting his help with technical amendments to the Fair Housing Laws that would make right to sue provisions consistent in all the laws and that would provide that Fair Housing Practices Act remedies would be available to fair housing claims under Title 42, Chapter 87 and Title 40, Chapter 9.1. The Commission would like Mr. Fox to introduce the bill.

Commissioner Wiley made a motion to approve the proposed bill. The Motion was seconded by Commissioner Lee and carried.

**REGULATIONS: No report at this time.**

**HEARING SCHEDULE: Discussed**

**Commissioner Meeting -3- January 29, 2010**

**DECISIONS: Commissioners Susa, Vella-Wilkinson and Ventrone discussed Gaffney vs. Town of Cumberland, et. al. Commissioner Susa and Vella-Wilkinson found discrimination in the Planning Board process and Commissioner Ventrone dissented. All Commissioners found that the complainants did not prove that the Zoning Board of Review discriminated against them as alleged in the charge.**

**The meeting adjourned at 11:00 a.m. The next regular meeting will be February 26, 2010 at 12:30 P.M.**

**Respectfully Submitted,**

**Michael D. Évora**  
**Executive Director**

**Notes taken by: B. Ross**  
**EXECUTIVE DIRECTOR'S**  
**REPORT TO COMMISSIONERS**  
**JANUARY 29, 2010**

**I. BUDGET**

**S = State/General Revenue; F = Federal (EEOC/HUD); T = Total**

	<b>FY 2010</b>	<b>FY 2010</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2011</b>
	<b>(Request)</b>	<b>(Enacted)</b>	<b>(Revised)</b>	<b>(Request)</b>	<b>(Gov.Rec.)</b>
<b>S</b>	<b>868,444</b>	<b>1,016,242</b>	<b>961,874</b>	<b>1,052,721</b>	<b>1,016,877</b>
<b>F</b>	<b>406,615</b>	<b>408,505</b>	<b>356,615</b>	<b>400,268</b>	<b>356,689</b>
<b>T</b>	<b>1,275,059</b>	<b>1,424,747</b>	<b>1,318,489</b>	<b>1,452,989</b>	<b>1,373,566</b>

**The Commission's Revised FY 2010 and FY 2011 Budget Proposals were submitted to the Budget Office/Governor on October 23, 2009. The FY 2010 Revised Appropriations Bill contains funding for the Commission's full 14.5 FTEs. The Governor is recommending funding for the full 14.5 FTEs for both FY 2010 and FY 2011.**

## **II. FEDERAL CONTRACTS**

**EEOC – For federal FY 2009 (ending 9/30/09), according to EEOC Project Director Marlene Toribio, we have closed 63 co-filed cases for FY 2010 (beginning October 1, 2009). We do not yet have our EEOC contract for the fiscal year.**

**HUD – For FY 10, according to HUD Project Director Angela Lovegrove, we have taken in 25 new housing charges, 19 of which are co-filed with HUD. Within this same time period, we have processed 30 housing charges, 25 of which were co-filed with HUD.**

## **III. PERSONNEL**

**The revised FY 2010 and FY 2011 budget proposals request that the 0.5 Sr. Compliance Officer position recently vacated by Tina Christy remain unfilled in order to meet the Budget Office's revenue target. Our Budget Analyst has advised that this position may actually be cut from the Commission's budget.**

**IV. OUTREACH – Refer to attached report**

## **V. GENERAL STATUS**

**&#9679;Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.**

**&#9679;Case Closures – Refer to attached report.**

**&#9679;Aged Cases – Refer to attached report.**

**&#9679;Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. We ended FY 09 with approximately 325 cases in inventory. As of 1/28/10, we had a total of 350 cases in inventory; 34 of those cases were pending assignment.**

**&#9679;EEOC Funding: On October 5, I contacted the DC offices of Senators Reed and Whitehouse urging them to vote in favor of HR 2847, a bill which would restore approximately \$4 million in funding to FEPAs nationwide. I also followed up with faxed letters to each of the Senators. The Senate has yet to take action on this bill, which passed the House.**

**On November 12, I received a message from a member of Senator Reed’s staff who advised that the funding bill had passed the Senate. He further apologized for the delay in responding to my letter(s), indicating that it “didn’t make its way through” in a timely manner.**

**The Commission has been advised that the appropriations bill passed and was signed by President Obama. It is expected that this year’s EEOC contract will see a restoration of funds mirroring the FY 2008**

level.

•Annual Report – The FY 2009 Annual Report will be sent to print today, pending Dr. Susa’s review/approval.

•Commission Gift Policy – In accordance with Dr. Susa’s request at April’s Commission meeting, Summer Legal Intern John Bogue researched and drafted language to be considered by the Commissioners in establishing a gift policy for the Commission. The proposed policy, which includes options to be reviewed and decided by the Commissioners, was distributed at the last Commissioners’ meeting (and mailed to those Commissioners not present) to facilitate discussion/decision at a future date when I and both Legal Counsels are present.

•Railing for Hearing Room – On November 25, I faxed a letter to Dorwest/Capstone (landlord) in respect to Commissioner Ventrone’s request for a railing for the ramp leading up to the bench/witness chair in the Hearing Room. On December 1, Paul Greisinger stopped by the office to assess the ramp. He has agreed to have Capstone’s architect come in to view the ramp and draft plans for a railing. On December 14, Capstone’s architect came to the office to view and assess the ramp.

Respectfully submitted,

**Michael D. Évora**  
**Executive Director**

## **Attachments**

**To: Commissioners**

**From: Cynthia Hiatt and Frank Gaschen, Legal Counsels**

**Re: Litigation**

**Date: January 29, 2010**

**Recent developments are in bold.**

### **Christopher Antonelli Bankruptcy**

**On November 5, 2008, the Commission entered a Decision on damages in the case of DeAngelis v. Antonelli, et al. Thereafter Mr. Antonelli filed bankruptcy and included the RICHR as a creditor. Mrs. DeAngelis filed a suit in the Bankruptcy Court against Mr. Antonelli to have her award from the Commission non-discharged. Counsel for DeAngelis wants to obtain the Commission file for introduction in Bankruptcy Court. Counsel contacted RICHR for the Morro decision on attorney's fees and reported that he is preparing to file for fees in bankruptcy court. Counsel for DeAngelis has filed a Motion for Summary Judgment in the bankruptcy court proceeding and Counsel Gaschen reviewed his brief and commented on it. The Court granted Summary Judgment for Mrs. DeAngelis, finding that her award was not dischargeable in bankruptcy. The attorney for Mr. Antonelli has**

**moved for reconsideration.**

**Aquidneck Island v. RICHR, et al.**

**This suit was brought by the plaintiff against multiple parties, alleging that liens have been placed on its property improperly. All liens were against Norman Cardinale not Aquidneck. Case is moot now.**

**Atturio et al v. Évora**

**This is an appeal of a Commission decision that granted in part and denied in part a motion to quash a Commission subpoena. The Court upheld the decision of the Commission. Counsel disagreed on the wording of the Order. Judge Lanphear signed the Order drafted by Commission counsel.**

**Babbitt v. Crescent Park Manor, et al.**

**The Commission intervened as a party plaintiff in this case. A discovery deposition was held. A motion to assign the case for trial was granted. A Motion for Summary Judgment was filed by the defendants. Commission Counsel filed an Objection and Memorandum in Opposition to the Motion for Summary Judgment. Hearing on the Motion is scheduled for February 16, 2010.**

**Bagnall v. RICHR and WLWC et al.**

**The complainant appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. On April 22, 2008, the complainant's attorney filed his brief. The**

**Commission's Brief was filed on August 27, 2008. The Commission received the respondent's brief on December 5, 2008. The parties plan to move to have the appeal assigned to a judge for decision. The complainant's attorney has informed me that he may file a reply memo.**

#### **Ezersky v. Rite-Way Forms, Inc.**

**On October 8, 2009, the complainant filed a petition to enforce the Commission Order. The petition was granted on October 23, 2009.**

#### **Gaffney v Town of Cumberland et al**

**The respondent appealed the Commission decision. In November, 2007, Judge Savage remanded the Commission Decision for the Commission to determine how the Commission would evaluate the evidence, given the conclusions reached in her decision. Judge Savage also asked the Commission to re-assess its Order. After numerous efforts to reach a resolution between the parties, and submissions by the parties in the winter and spring of 2009, the case was taken under consideration by the Commission.**

#### **J.J. Gregory and Sons v. RI Commission for Human Rights and Brenda Zeigler**

**The Commission found that J.J. Gregory and Sons discriminated against Brenda Zeigler because of her sex. J.J. Gregory and Sons filed an administrative appeal. Its appeal was amended to include an appeal of the Commission's Decision on Damages and Attorney's**

**Fees. The Commission filed the administrative record with the Court on February 14, 2008. Respondent filed its brief on January 5, 2009. The complainant filed her brief on January 29, 2009. The Commission filed its brief on February 9, 2009. On February 10, 2009, the appeal was assigned to Judge Judith Savage for decision.**

#### **Laboy v. Stat Health Services**

**Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order. One respondent was located in MA. Suit will be filed shortly to enforce the Commission Decision.**

#### **MHRH v. RICHR and the Estate of Dr. John Satti**

**MHRH has appealed the Commission decision that MHRH retaliated against Dr. Satti and discriminated against him on the basis of his age. MHRH filed its Brief on August 7, 2008. On October 21, 2008, the Commission filed the administrative record. On January 14, 2009, the Commission filed its brief. The complainant's brief is pending.**

#### **RICHR (Breault) v. Elmhurst House, et al.**

**In this Fair Housing Practices Act case, the respondents elected to have the case heard in Superior Court. Suit on behalf of the Breaults was filed against four respondents in Providence Superior Court on January 27, 2009. Discovery was served upon the defendants.**

#### **RICHR (Lovegrove) v. Escolastico**

**A Rhode Island judgment was obtained and sent to a Florida lawyer for collection. Counsel is waiting for Ms. Lovegrove to forward funds to the Florida counsel to begin Supplementary Proceedings against Mr. Escolastico.**

**RICHR (Manfred) v. BD Holding (Facilities Services Management, Inc.)**

**A complaint was filed to enforce the Commission decisions. The complaint and discovery requests are pending service on the respondent.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, et al. Motions for Entry of Default were granted on January 21, 2009.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act has been filed against defendants. Discovery was commenced. Motions to compel will be filed.**

**RICHR (Morin) v. Teofilo Silva, et al.**

**A complaint for enforcement was filed on 3-24-05. Service of the**

**complaint will be made once respondent can be located.**

**RICHR (Robinson) v. Geruso, Flagship Management, et al.**

**After a finding of probable cause, a complaint against six defendants was filed in Superior Court alleging racial discrimination in a failure to rent case. The case was settled and HUD and the press notified. RICHR will monitor the case for three years.**

**RICHR (Sousa) v. Galvin**

**A Miscellaneous Petition was filed in Providence County Superior Court to have a show cause hearing on whether Mr. Galvin should be held in contempt for failure to comply with two subpoenas duces tecum, either by appearing or sending the documents requested. The defendant is avoiding service.**

**RICHR (Wright) v. New Canonchet Cliffs, et al.**

**The Commission found probable cause and the respondents elected in this housing case that alleges failure to give a reasonable accommodation regarding a support animal (the respondents claimed that the dog was too big for a pet). Suit was filed in Washington County Superior Court. The complaint was sent to counsel for defendants who agreed to accept service.**

**RICHR (Switzer) v. Principe**

**The Commission found probable cause and the respondents elected in this housing case that alleges familial status discrimination. Suit was filed in state court on January 27, 2009. The complaint was**

amended to add another defendant and discovery was propounded. Defendants' attorney was given more time to answer and to discuss settlement. Motions to compel and default were filed. An Order conditionally defaulting the defendants was entered. The Conditional Default was ordered to be Final Default for the individual defendant as that defendant did not respond to prior court Orders. Commission Counsel made oral proof of claim and moved for entry of judgment with respect to the individual defendant and judgment will enter on February 2, 2010 unless the defendant complies with the discovery orders in the meantime.

**RICHR (Costa, et al.) v. Woonsocket Housing, et al.**

This case deals with a failure to reasonably accommodate the complainants' request to have two assistive dogs in one apartment. After a probable cause finding, both sides elected and suit was filed in the Superior Court. An answer filed to the complaint. A motion to compel and more discovery requests were filed. An Order conditionally defaulting the defendants was entered. The defendants filed responses to the discovery request. It appears that a resolution is pending.

**RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport**

The case is resolved. The Commission must annually monitor City training. Training was completed for 2007. Additional training was held and a report given to Counsel by the Training Officer Rob Ring.

**Rite-Way Forms, Inc. v. State of Rhode Island, Commission for Human Rights and Christopher M. Ezersky**

**On June 4, 2009, the Commission was served with respondent's appeal of the Commission Decision and Order, which found that the respondent harassed the complainant because of his disability, and the Commission Decision on Damages, which awarded attorney's fees and compensatory damages to the complainant. On August 14, 2009, the Commission received the respondent's Stipulation to dismiss the appeal. On August 31, 2009, the Commission issued a Decision and Order on the Complainant's Motion for Supplementary Attorneys Fees. [See Ezersky v. Rite-Way Forms, Inc. above.]**

**Tucker v. Blue Cross**

**The complainant filed an administrative appeal of the Commission's finding of no probable cause. No action taken since appeal filed in 2004.**