

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

**April 30, 2010**

**A meeting of the Commission for Human Rights was held in the agency conference room on Friday, April 30, 2010. Present at the meeting were Commissioners Alton Wiley, Jr., Dr. John Susa, Chair, Iraida Williams, Rochelle Bates Lee, Nancy Kolman Ventrone, Alberto Aponte Cardona and Camille Vella-Wilkinson. Commissioner Lee arrived at 12:45 p.m., Commissioner Wiley arrived at 12:55 p.m. and Commissioner Williams arrived at 1:10 p.m. Dr. Susa called the meeting to order at 12:30 p.m.**

**A motion was made by Commissioner Vella-Wilkinson to approve the minutes of February 26, 2010. The motion to approve was seconded by Commissioner Ventrone and carried.**

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

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

**Case Production Report – Attached**

**Aged Case Report - Attached**

**Outreach Report - Attached**

**The Director handed out the Draft Commission Gift Policy which had been revised per the discussion at the last Commission meeting. The Commissioners agreed with Part I and agreed with Part II with a revision of wording. After discussion on Part III, the Commissioners decided to postpone further discussion until a later meeting.**

## **STATUS REPORT - COMMISSIONERS-**

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

**Commission Meeting -2- April 30, 2010**

**OUTREACH: Commissioner Wiley reported that Commissioner Vella-Wilkinson had written an article about pay equity in the March edition of the Providence American.**

**Commissioner Williams reported that when she and her daughter went to the State House to testify on bills, the Capitol Police failed to accommodate her daughter's cochlear implant in their screening procedures. Representative Joseph McNamara, Chair of the Health, Education and Welfare Committee, apologized at the time and sent a letter to the Capitol Police with a copy to Commissioner Williams. The Chair of the Commission on the Deaf and Hard of Hearing is also reviewing the matter.**

**Commissioner Williams has spoken to Blue Cross representatives, including the CEO, about the problems with their policy on reimbursement for cochlear implant-related services.**

**Commissioner Williams and her son will co-lead a presentation on equal rights to the RHD-RI group.**

**Commissioner Vella-Wilkinson has worked with Julianne Jennings of the Indian Council with respect to the protest against the recently-developed King Philip's War board game. Commissioner Vella-Wilkinson recently attended a Native American student organization Pow Wow.**

**Commissioner Susa has spoken with Norman Lincoln and told him that Commissioners would be willing to attend outreach meetings in the community.**

**STATUS REPORT - LEGAL COUNSEL by Cynthia M. Hiatt and Francis Gaschen**

**LITIGATION: Report Attached**

**LEGISLATION: Crucial and important bills were discussed. Commissioner Williams reported on her testimony with respect to**

**bills that would increase health insurance reimbursement for hearing aids and**

**Commissioner Meeting -3- April 30, 2010**

**cochlear implant-related services. Director Évora reported on his efforts to bring community representatives and police department representatives together on racial profiling legislation.**

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

**HEARING SCHEDULE: Discussed**

**DECISIONS: Commissioners Cardona, Ventrone, Susa and Williams discussed the case of Medeiros v. R & D Roofing, Inc. and Roger Pratas. Commissioners Cardona and Williams were of the opinion that the complainant proved that he had a disability; Commissioners Susa and Ventrone were of the opinion that the complainant did not prove that he had a disability. A fifth Commissioner will read the case and the Commissioners will hold a special meeting on May 20 at 4 p.m. to discuss the case further.**

**Commissioners Susa, Lee and Vella-Wilkinson discussed the case of Livia G. Almeida v. AM Donuts, Inc. d/b/a Dunkin' Donuts and Vanessa Silva. All the Commissioners agreed that the respondents had discriminated against the complainant with respect to pay, terms**

and conditions of employment and failure to provide reasonable accommodation. After discussion, the Commissioners agreed that they would find that the complainant did not prove that her disability was a motivating factor in her termination. The Commission will hold a separate hearing to determine the compensatory damages, if any, that should be awarded to the complainant.

The meeting adjourned at 3:00 p.m. The next regular meeting will be May 28, 2010 at 12:30 P.M. There will be a special meeting on May 20, 2010 at 4:00 p.m. to discuss the Medeiros case.

Respectfully Submitted,

Michael D. Évora  
Executive Director

Notes taken by: C. Hiatt

**EXECUTIVE DIRECTOR'S  
REPORT TO COMMISSIONERS  
30 APRIL 2010**

## **I. BUDGET**

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

**FY 2010 FY 2010 FY 2010 FY 2011 FY 2011**

**(Enacted) (Revised) (Supp.) (Request) (Gov.Rec.)**

**S 1,016,242 961,874 961,874 1,052,721 1,016,877**

**F 408,505 356,615 313,219 400,268 356,689**

**T 1,424,747 1,318,489 1,275,093 1,452,989 1,373,566**

**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.**

**The Commission's FY 2011 budget was heard by House Finance on April 27. I attended the hearing and made a brief presentation regarding the Commission's FY 2009 performance and its current budgetary needs and answered questions from Committee members.**

## **II. FEDERAL CONTRACTS**

**EEOC – For federal FY 2010 (beginning October 1, 2009), according to EEOC Project Director Marlene Toribio, we have closed 135 co-filed cases. We have been advised that our EEOC contract for the fiscal year is for 251 cases (an increase to the FY 2008 funding level following last year's unilateral 16% contract reduction); The contract has been received and finalized. We need to close 116 more co-filed cases by September 30 to meet the contract.**

**HUD – For FY 10, according to HUD Project Director Angela Lovegrove, we have taken in 35 new housing charges, 29 of which are co-filed with HUD. Within this same time period, we have processed 35 housing charges, 30 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. The Governor has recommended funding for all of our 14.5 FTEs for FY 2011.**

**Susan Pracht has taken an extended vacation followed by a leave (without pay) to participate in a volunteer internship. She began her leave on March 5 and will return to the office on May 12.**

### **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.**

**We are slightly behind last year’s case processing rate. For FY 09, we processed 329 cases from July 1 to the end of March; for this fiscal year, we processed 302 in that same time period.**

**&#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 4/9/10, we had a total of 312 cases in inventory; 38 of those cases were pending assignment. All of these cases were assigned to investigative staff in mid-April.**

**&#9679;Annual Report – The FY 2009 Annual Report has been distributed to the staff of the Governor, key Legislators and community organizations.**

**&#9679;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 revised in accordance with the comments/suggestions of the Commissioners made at the February meeting. The latest draft of the policy was sent via email to**

**Commissioners earlier this week.**

**&#9679;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. On February 2, I spoke with Mr. Greisinger; he agreed to have the architect submit a drawing/draft of the proposed railing to the Commission for approval. On February 22, I met with a Capstone representative and a carpenter to discuss the placement of the railing. They will identify a date for construction/installation which does not conflict with hearings or PDCs. The railing has been constructed, installed and stained.**

**Respectfully submitted,**

**Michael D. Évora**

**Executive Director**

**Attachments**

**To: Commissioners**

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

**Re: Litigation**

**Date: April 30, 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. Mrs. DeAngelis filed a suit in the Bankruptcy Court against Mr. Antonelli to have her award from the Commission non-discharged and the Court decided the issue in her favor. 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 Superior Court upheld the decision of the Commission. The plaintiffs petitioned the RI Supreme Court to hear the case. In the meantime, the Petitioners Motion for a Stay of the Superior Court Order was denied by the Superior Court. The petitioners refiled it in the Supreme Court, and after a hearing before one Justice on April 27, the motion was sent to the full court to be heard on May 6, 2010.**

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

**The Commission intervened as a party plaintiff in this case. A discovery deposition was held. Defendants' Motion for Summary Judgment was denied. The case will be called for trial shortly. I have offered to mediate.**

### **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.**

### **Dill v. Wal-Mart**

**The plaintiff in this Superior Court disability discrimination claim has subpoenaed Commission records. Commission Counsel and plaintiff's counsel have agreed to limited production of records by March 31. Interested parties have been notified of the Commission production of records. The respondent filed a Motion to Quash with the Superior Court on March 29. The hearing is scheduled for May 3. The parties are not in agreement as to whether the Commission must**

**comply before the hearing on the motion. The parties agreed to have a conference call on this issue, but none has been scheduled.**

#### **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. A decision in the case issued on March 12, 2010. On April 14, 2010, Commission counsel accepted service of respondents' appeal of the Commission decision. The appeal names the Commission as a whole and Commissioners Susa, Kolman Ventrone and Vella-Wilkinson in their official capacities. Justice Savage, in her 2007 decision, provided that she maintained jurisdiction over any future appeals.**

#### **J.J. Gregory and Sons v. RICHR 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 appeal. Its appeal was amended to include an appeal of the Commission's Decision on Damages and Attorney's Fees. The Commission filed the record 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 was filed to enforce the Commission Decision; service on the respondent has not been effectuated yet. I cannot locate the individual defendant.

#### **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 (Banyaniye) v. Mi Sueno, et al.**

A Petition for Enforcement was filed and the defendants served. The

**case may be settled shortly but in the meantime the respondents were given extra time to respond to the complaint and discovery requests of the Commission.**

**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 (Hogan) v. AHA, et al.**

**Respondents elected to have this FHPA case heard in Superior Court. Complaint served and extra time to respond was requested by respondents.**

**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. Mr. Escolastico's house was to be auctioned in foreclosure March 10, 2010 but postponed and is to be rescheduled.**

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

**A complaint was filed to enforce the Commission decisions. The complaint and discovery requests have been served on the respondent. Late entry stip provided to defense counsel. Letter requesting settlement demand sent to Manfred and the figure was given to defense counsel. Answer filed.**

**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. First report due March 19, 2010 was not received so I have sent a reminder to defense counsel.

**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. Answer was filed and discovery will be commenced shortly.

**RICHR (Switzer) v. Principe and TEN SEVENTY EIGHT MAIN**

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 1-27-09. Judgment has been entered against Principe. Default judgment motion against Ten Seventy Eight Main granted on March 10, 2010. Executions against Principe and Ten Seventy Eight requested; waiting for receipt of same.

**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. RICHR has been working with Boston HUD on this case as HUD has

**its own complaint. The case has been settled: respondent to be trained, enact a policy for support animals and pay the respondents \$7500. Paperwork signed with respondent; complainants have money; HUD signed the agreement which was sent out to defense counsel and the Superior Court case was dismissed.**

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

**The case is resolved. The Commission must annually monitor City training. Training was completed for 2009.**

**Tucker v. Blue Cross**

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